

Chapter 1.

Investment policy and promotion in South East Europe

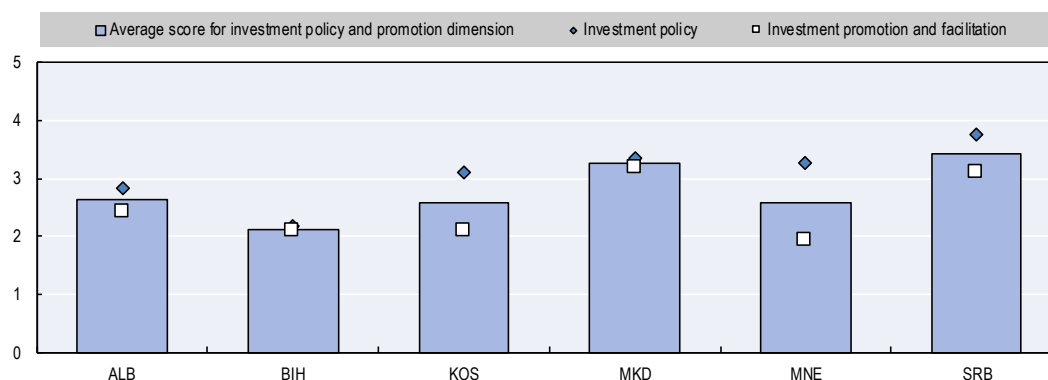
This chapter on investment policy and promotion assesses the policy settings, strategies, processes, and institutions in six South East European economies. After a brief overview of trends and performance in foreign direct investment in South East Europe (SEE), this chapter then focuses on two essential sub-dimensions. The first sub-dimension, investment policy, covers market access and exceptions to national treatment, investor protection, and intellectual property rights in the assessed economies. The second – investment promotion and facilitation – examines their strategies and institutional framework, investment promotion activities, investment facilitation services, and measures to promote linkages between foreign and domestic firms. It includes suggestions for enhancing the policies in each of these sub-dimensions in order to improve overall investment policy and promotion, which in turn would foster the competitiveness of these economies.

Main findings

A sound investment policy and promotion framework is at the heart of an economy's competitiveness. It supports economic growth and sustainable development by meeting the needs of both investors – foreign and domestic – and society more broadly (OECD, 2015a). All six assessed South East European (SEE) economies – Albania, Bosnia and Herzegovina, the Former Yugoslav Republic of Macedonia, Kosovo,* Montenegro, and Serbia – actively promote private investment as a key engine of economic development. Foreign direct investment (FDI) inflows have increased substantially over the past two decades, as investment climate reforms have contributed to making the region an increasingly attractive destination for foreign businesses.

The six SEE economies have relatively sound investment policy frameworks and coherent institutional frameworks for investment promotion and facilitation (Figure 1.1). Most have slightly higher scores in investment policy than investment promotion and facilitation. These reflect the results of successful reforms to open their economies and improve the regulatory framework for investment, while highlighting the need to further strengthen the investment promotion institutions, reinforce co-ordination within government and enhance the developmental impact of FDI.

Figure 1.1. Investment policy and promotion: Dimension and sub-dimension average scores



Note: See the methodology chapter for information on the *Competitiveness Outlook* assessment and scoring process.

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Comparison with the 2016 assessment

Progress has been made on several fronts over the past two years. SEE economies have modernised their investment policy framework by adopting new investment and investment-related laws, including on arbitration and intellectual property (IP) rights. Recent or pending justice reforms in several economies are expected to strengthen investor confidence. Efforts to streamline business establishment procedures have been noteworthy and several investment promotion agencies (IPAs) have been modernised or restructured to improve how they conduct their key functions. However, the economies

* This designation is without prejudice to positions on status, and is in line with United Nations Security Council Resolution 1244/99 and the Advisory Opinion of the International Court of Justice on Kosovo's declaration of independence.

have yet to make progress on enforcing contracts promptly and adequately, raising awareness of IP rights, further empowering IPAs, granting incentives more cautiously, and promoting linkages between foreign and domestic firms.

Achievements

All the economies have taken a clear pro-investment stance and provide open and non-discriminatory environments for foreign investors. Remaining restrictions on FDI are below the OECD average; they are not unusual and do not constitute a major impediment to foreign investment.

Sound legal frameworks for investment are provided, including for property and IP rights protection. Investor protection standards are high and expropriations of companies are rare and subject to sound and predictable rules. IP laws and regulations follow international practice and are becoming aligned with the European Union's standards.

The economies have well-established IPAs that conduct the core functions of investment promotion and facilitation. They have designed sound investment promotion strategies with well-delineated priorities and targets, and most economies are putting increasing efforts into proactive promotion and investor outreach.

Setting up a company is, in most cases, easy and predictable. Procedures to start a business have been streamlined and are generally transparent and straightforward. The authorities also maintain a constructive dialogue with the private sector to inform it of pending reforms, collect feedback on legislative proposals and discuss challenges faced by investors. Some economies provide focused aftercare services to identify and support opportunities for business expansion.

Remaining challenges and key recommendations

- **Further improve the clarity, transparency and predictability of the regulatory framework for investment.** For example, none of the six economies has established a foreign investment negative list to clearly delimit the sectors where foreign investment is prohibited or conditioned, and the discriminatory conditions which apply.
- **Systematically ensure prompt legal procedures and consistent interpretation of the law, especially when it comes to enforcing commercial contracts.** There is a significant backlog of court cases, and reports of regular political interference. Judges would benefit from additional training to deal with commercial and IP cases.
- **Strengthen co-ordination among IP-related institutions and make further efforts to sensitise businesses and the public and provide them with better access to information on IP rights.** IP-related institutions currently lack capacity to fully enforce IP rights and conduct awareness-raising activities.
- **Give IPAs adequate resources and capacity to conduct key investment promotion and facilitation functions, such as investor targeting and aftercare.** Sectoral competences need to be reinforced, and institutional co-ordination enhanced, to avoid activities overlapping and to ensure that obstacles faced by investors are promptly removed. Incentive regimes are often complex and incentives are mostly granted without (at least publicly disclosed) cost-benefit analyses.

- **Take steps to enhance the impact of FDI by creating linkages between foreign investors and domestic firms.** Authorities in the SEE economies should further support small businesses and develop comprehensive business linkage programmes. IPAs should increasingly integrate matchmaking into their activities and align their FDI promotion strategy with local linkage opportunities.

Context

Investment is a crucial ingredient of economic growth and sustainable development. Raising investment levels is not a goal in itself, as investment may sometimes have negative effects on economic welfare or on the environment. Under the right conditions, however, it can raise overall output through factor accumulation and by introducing new techniques and processes which boost productivity and – ultimately – standards of living. In most countries, domestic investments usually dominate, but FDI inflows can provide additional advantages beyond their potential contribution to the capital stock by serving as a conduit for productivity gains through greater competition and the local diffusion of technology and expertise (OECD, 2015b).

While there is no one-size-fits-all solution to creating an enabling environment for investment, some guiding principles and elements of a good investment climate are internationally recognised as important building blocks to support overall competitiveness. A fair, transparent and predictable regulatory framework for investment, for instance, is one critical determinant of investment decisions and their contribution to development. It is particularly important for foreign investors who may have to function with regulatory systems, cultures and administrative frameworks that are very different from their own. Uncertainty about their lawful rights and obligations raises risks for investors, affecting their cost of capital and reducing investment opportunities. Similarly, investment promotion and facilitation measures can help to make an economy's investment climate more attractive and maximise the contributions of FDI to development, but their success depends on the quality of investment-related policies (OECD, 2015a).

This chapter draws on internationally recognised principles and policies, as documented in the OECD *Policy Framework for Investment* (OECD, 2015a),¹ a comprehensive policy tool to assess an economy's investment climate, and to compare and assess investment policy and promotion activities in the region. It also uses the OECD *FDI Regulatory Restrictiveness Index* (OECD, 2017b) to measure and benchmark statutory restrictions to foreign investment in the region.

Investment, by its very nature, touches upon a number of other policy areas. Investment policy – like competitiveness – is an issue requiring policy responses that cannot easily be covered within a single government department or agency. Investors expect public policies and services to be seamless and responsive to their needs, and not defined by separate administrative structures. Coherence is particularly important in regulation, which is one of the main pillars of an effective investment policy (OECD, 2015a). This chapter therefore relates to all other dimensions of this *Competitiveness Outlook*, but it has particularly close links with the following chapters:

- **Chapter 2. Trade policy and facilitation** is particularly relevant, given the importance of the increasingly inter-related trade and investment nexus, and in the context of global value chains and the discussion on trade and/or investment restrictiveness.

- **Chapter 4. Tax policy** is crucial, as host governments need to find the right balance between providing an attractive tax regime to investors and ensuring that sufficient revenues are raised to improve the broader investment climate.
- **Chapter 7. Education and competencies** affect the availability of adequate skills, which drives foreign investment decisions. They also are a prerequisite for creating linkages with the local economy.
- **Chapter 9. Science, technology and innovation** link to investment, not only in the context of the IP regime (an important condition of a sound investment climate), but also in relation to technology and knowledge transfers – a key expected benefit for the host economy.
- **Chapters 11 and 12.** The quality and availability of **transport and energy** affect an economy's investment attractiveness and can also constitute important destinations for FDI.
- **Chapter 17. Anti-corruption policy** plays a key role, especially as regards the quality and independence of the justice system and the need for investors to know that their contractual rights will be upheld promptly and satisfactorily by local courts.

Investment policy and promotion assessment framework

The investment policy and promotion dimension examines the extent to which governments have established competitive investment policy and investment promotion. Without seeking to be exhaustive, it considers two broad sub-dimensions:

1. Investment policy: to what extent are the economies open to FDI and how does the legal framework for investment protect investors and uphold the IP rights regime?
2. Investment promotion and facilitation: what is the institutional framework to attract and facilitate inward investment, including strategies and investment promotion activities, measures to facilitate investment and the promotion of business linkages?

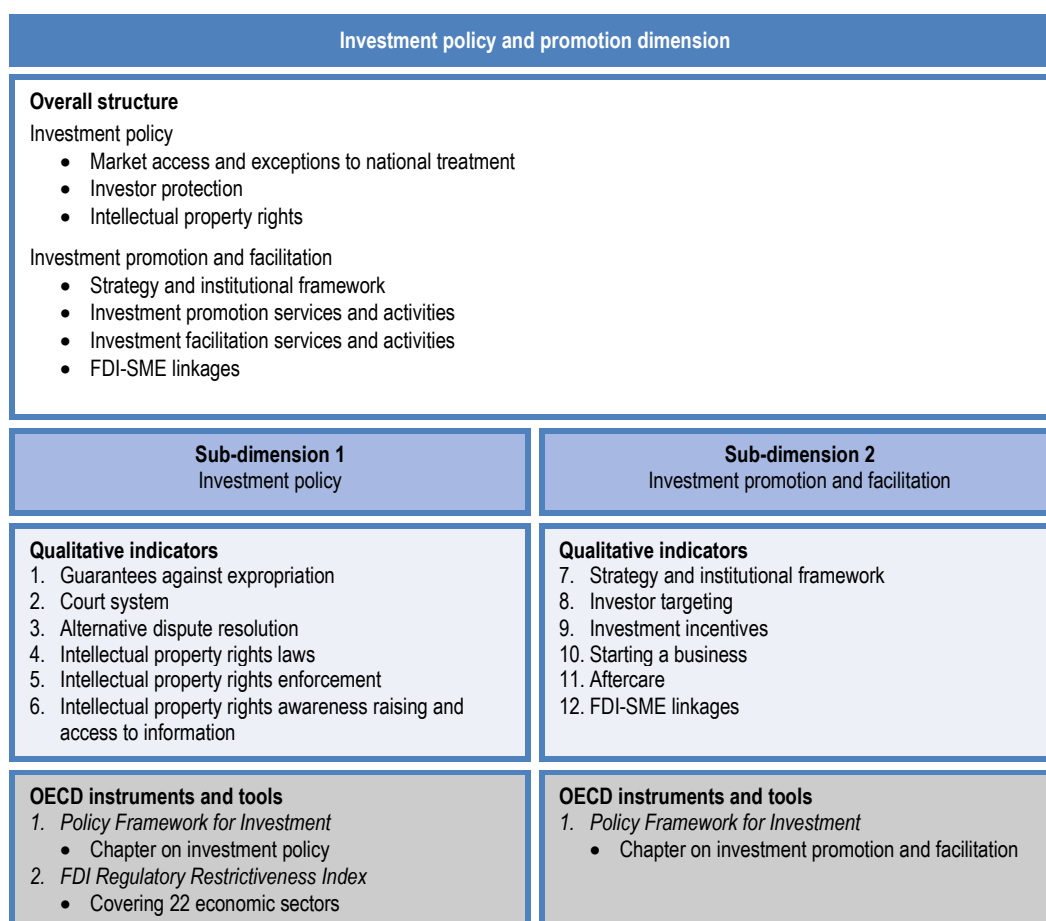
Figure 1.2 shows how the sub-dimensions and their constituent indicators make up the investment policy and promotion assessment framework. Each sub-dimension is assessed through quantitative and/or qualitative information. The OECD collected the qualitative and quantitative data for this dimension with the support of the SEE governments and their statistical offices. Qualitative indicators are based on the OECD's *Policy Framework for Investment*. They have been scored in ascending order on a scale of 0 to 5,² and are summarised in Annex 1.A1. For more details on the methodology underpinning this assessment please refer to the methodology chapter. The statutory restrictions on the foreign direct investment indicator is based on the *OECD FDI Regulatory Restrictiveness Index*.

FDI performance in SEE economies

Levels of FDI inflows into the economies increased substantially throughout the 2000s, as a response to the move from centrally planned to market-oriented economies. Flows increased by 20-27% a year in economies such as Albania, Bosnia and Herzegovina, and the Former Yugoslav Republic of Macedonia (UNCTAD, 2017). Liberalisation reforms, measures to improve the business climate, privatisation

programmes and deepened economic ties with the European Union (EU) have contributed to making SEE an increasingly attractive investment destination, primarily for investors from EU countries and the Russian Federation.

Figure 1.2. **Investment policy and promotion assessment framework**

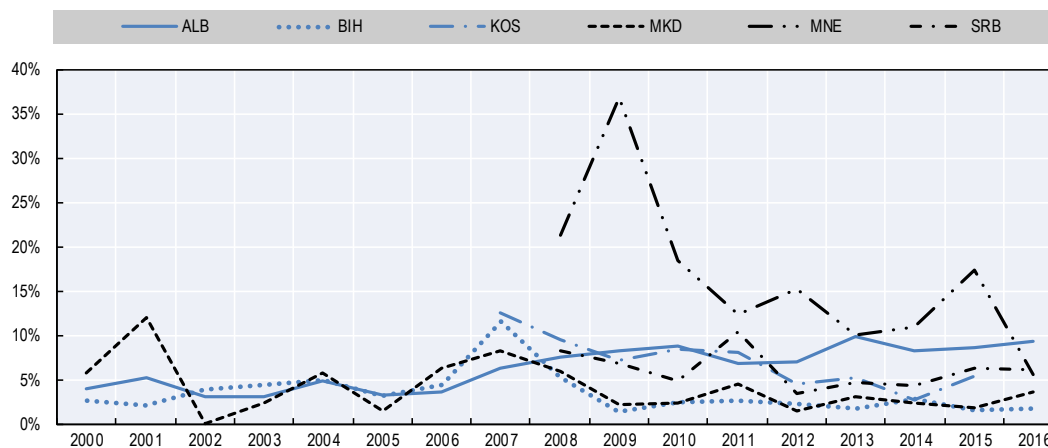


Note: SME – small and medium-sized enterprises.

Since 2013 SEE economies have been attracting around USD 5 billion of foreign investments annually (Figure 1.3), about half of which has gone to Serbia each year, given its relatively large economy.³ In relative terms, Montenegro and Albania have been the leading economies for FDI inflows measured as a percentage of gross domestic product (GDP), whereas the lowest ratios in 2016 were in Bosnia and Herzegovina (1.7%) and the Former Yugoslav Republic of Macedonia (3.6%). In 2016, however, Montenegro's FDI flows fell by two-thirds compared to the previous year, thus lowering its ratio of FDI to GDP significantly.

FDI stocks represented over 40% of GDP in the six economies in 2016. Compared to the EU and to the peer economies of Croatia and Slovenia, FDI as a proportion of GDP is high in Montenegro (108%), Serbia (76%) and Kosovo (55%), and on a par with or slightly below the EU and Croatia (but higher than Slovenia) in the Former Yugoslav Republic of Macedonia (47%), Bosnia and Herzegovina (43%) and Albania (41%) (Figure 1.4). These figures reflect the important role that FDI plays in the SEE economies.

Figure 1.3. FDI inflows as a percentage of GDP (2000-16)

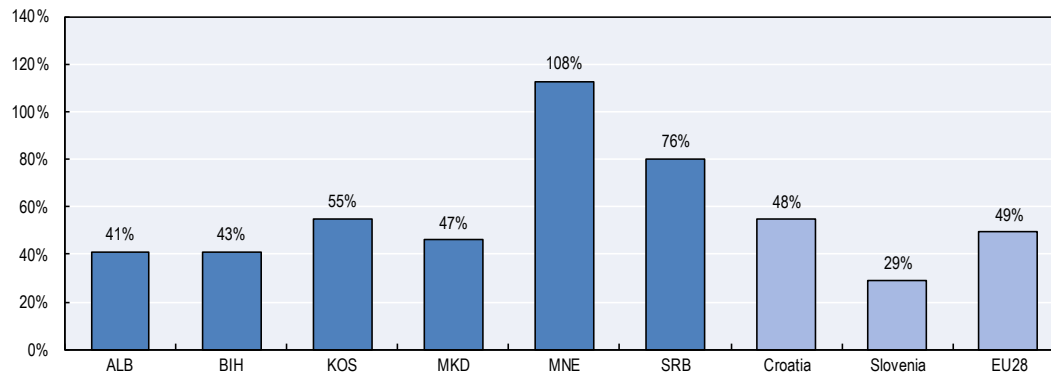


Note: Data for Kosovo are available from 2007 to 2015; data for Montenegro and Serbia are available from 2008.

Sources: UNCTAD (2017), *World Investment Report 2017: Investment and the Digital Economy*, <http://unctad.org/en/pages/PublicationWebflyer.aspx?publicationid=1782>; for Kosovo: World Bank (2017b), *World Development Indicators 2017*, <https://openknowledge.worldbank.org/handle/10986/26447>.

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Figure 1.4. FDI stock as a percentage of GDP (2016)



Note: Data for Kosovo are from 2015.

Source: UNCTAD (2017), *World Investment Report 2017: Investment and the Digital Economy*, <http://unctad.org/en/pages/PublicationWebflyer.aspx?publicationid=1782>; IMF (2017), *IMF Data* (database), www.imf.org/en/Data.

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For the past two decades, foreign investment in the SEE economies has primarily come from Western Europe (Austria, Germany, Italy, the Netherlands and Switzerland) and the Russian Federation (Table 1.1). Investment in the region also comes from neighbouring countries such as Croatia, Greece, Slovenia and Turkey as well as North America.

Table 1.1. **Top five investing countries**

Share of FDI stock (2015)

ALB		BIH		KOS		MKD		MNE		SRB	
Greece	30%	Austria	20%	Turkey	11%	Netherlands	22%	Russian Fed.	13%	Netherlands	21%
Netherlands	17%	Serbia	17%	Germany	9%	Austria	12%	Italy	12%	Austria	14%
Turkey	9%	Croatia	17%	Switzerland	7%	Greece	11%	Cyprus ^{1,2}	11%	Cyprus	10%
Austria	8%	Russian Fed.	8%	Slovenia	7%	Slovenia	9%	Serbia	5%	Russian Fed.	6%
Italy	5%	Slovenia	7%	Austria	6%	Hungary	5%	Netherlands	4%	Germany	5%

Notes: 1. Footnote by Turkey: The information in this document with reference to “Cyprus” relates to the southern part of the Island. There is no single authority representing both Turkish and Greek Cypriot people on the Island. Turkey recognises the Turkish Republic of Northern Cyprus. Until a lasting and equitable solution is found within the context of United Nations, Turkey shall preserve its position concerning the “Cyprus” issue; ² Footnote by all the European Union Member States of the OECD and the European Union: The Republic of Cyprus is recognised by all members of the United Nations with the exception of Turkey. The information in this document relates to the area under the effective control of the Government of the Republic of Cyprus.

Source: IMF (2017), *IMF Data* (database), www.imf.org/en/data.

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Although the sectoral distribution of FDI varies across the six economies, financial services and telecommunication account for large shares of foreign investment, notably as a result of privatisation. Financial intermediation accounts for 17-28% of the FDI stock across economies, while transport and communications account for 2-28%.⁴ Manufacturing is the leading sector for FDI in the Former Yugoslav Republic of Macedonia (36% of FDI stock), Serbia (32%), Bosnia and Herzegovina (28%) and, to a lesser extent, in Kosovo (12%). This is because EU investors have located export-oriented activities in these economies to serve their home markets while benefitting from lower production costs. Evidence from the Former Yugoslav Republic of Macedonia and Serbia suggests that special economic zones (SEZs) in these two economies significantly contributed to the recovery of manufacturing FDI in the post-crisis period (OECD, 2017a). Construction is also an important sector in Kosovo (11% of FDI stock), Serbia (7%) and the Former Yugoslav Republic of Macedonia (5%).

Serbia has been able to attract a considerable amount of foreign investment. The manufacturing sector is diversified, with projects in the automotive industry (e.g. Fiat, Michelin), in the electronics industry (e.g. Siemens, Gorenje), in information and communications technology (ICT, e.g. Microsoft, IBM) and in the food (e.g. Nestlé) and textile (e.g. Benetton) industries. In the Former Yugoslav Republic of Macedonia, metal product manufacturing represented 8% of FDI stock in 2015. Steel companies Duferco and ArcelorMittal both operate there as well. Multinational enterprises from Germany, Italy, the United Kingdom and the United States have established automotive component manufacturing activities in the Technological Industrial Zone of Skopje (OECD, 2017a; UNCTAD, 2012). Once an important industrial centre in Yugoslavia, Bosnia and Herzegovina was able to revive its metal industry and successfully attract projects in the auto-part manufacturing and agro-processing sectors (UNCTAD, 2015).

In Albania, natural resource-based activities are among the top three sectors for FDI (26% of the FDI stock), along with financial intermediation (27%) and transport, storage and communication (28%). Greek companies accounted for almost one-third of its 2015 FDI stock. Albania is also an important investment destination for Turkish and Italian small and medium-sized enterprises (SMEs) in the energy and the tourism sectors

(Mejdini, 2016). Montenegro has attracted large investments from the Russian Federation over the past decade (13% of FDI stock).⁵ Its main FDI sectors are commodities (aluminium), real estate and tourism. Kosovo has been attracting investments primarily in real estate, renting and business activities (34% of FDI stock); financial intermediation (17%); and manufacturing (12%). Investments from Turkey account for the largest share of FDI stock (11%), with over 500 Turkish companies carrying out business activities, particularly in the construction sector.

More recently, investors from the People’s Republic of China (hereafter “China”) and the Middle East have also been taking an interest in the region. Chinese companies have invested in large energy, infrastructure and manufacturing projects in Albania, Bosnia and Herzegovina and Serbia. For example, in 2016 an agreement was signed with a Chinese consortium to construct a lignite power plant in the Bosnian town of Tuzla, a project of over USD 740 million. The same year, China Everbright Limited – an international investment and asset management company based in Hong Kong, China – acquired all the shares in International Tirana Airport. Middle Eastern countries, on the other hand, are looking to realise property investment in SEE. In 2016, the publicly owned Investment Corporation of Dubai acquired the Porto Montenegro luxury resort for about USD 200 million. In Bosnia and Herzegovina, investors from the Gulf are investing in the property market, building malls, holiday resorts and residential buildings (The Economist, 2016). One of the largest projects is the USD 2.6 billion investment by Dubai-based Buroj Property Development to build an entire touristic city in the Bjelašnica Mountains.

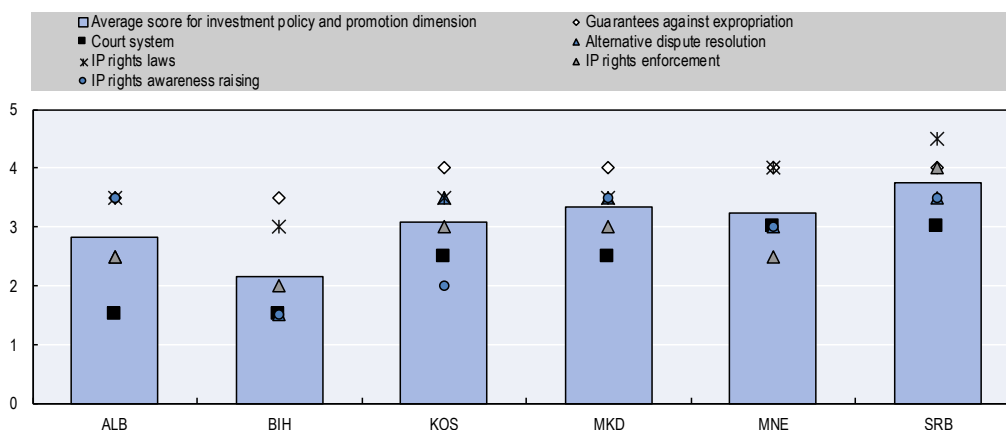
Investment policy

The legal framework for investment is the cornerstone of an enabling investment environment. Investment policy refers to the laws, regulations and policies relating to the admission of investors; the rules once established; and the protection of their property. But it also refers to the goals and expectations for investment’s contribution to sustainable development. The non-discrimination principle (explained below), the degree of openness to foreign investment, the protection of investors’ property rights, and mechanisms for settling investment disputes are some of the critical elements underpinning a good investment policy. These elements are covered here in three sections: 1) market access and exceptions to national treatment (assessed through the measurement of statutory restrictions to FDI); 2) investor protection (assessed through the guarantees against expropriation, court system and alternative dispute resolution indicators); and 3) intellectual property rights (assessed through the intellectual property right enforcement and awareness raising indicators). The first element was assessed using the OECD *FDI Regulatory Restrictiveness Index* (OECD, 2017b), while the latter two were assessed using qualitative indicators. Figure 1.5 summarises the scores for these qualitative indicators for the six SEE economies.

Markets are open and exceptions to national treatment are limited

An open and non-discriminatory investment environment is a central tenet of an attractive investment climate. It helps to ensure that all investors are treated alike in like circumstances, irrespective of their ownership. One of the concepts derived from the principle of non-discrimination in the context of foreign investment is that of national treatment, which requires that governments treat foreign-owned or foreign-controlled enterprises no less favourably than domestic enterprises in like situations (OECD, 2015a).

Figure 1.5. Investment policy: Sub-dimension average score and indicator scores



Note: See the methodology chapter for information on the *Competitiveness Outlook* assessment and scoring process.

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No economy, including SEE and OECD economies, accords market access or national treatment to foreign-owned enterprises in their territories across the board. Despite the potential benefits of FDI being generally accepted across the SEE governments, and FDI attraction having become an important policy tool to finance development in many economies, concerns over the loss of national sovereignty and the protection of national interests continue to lead governments to discriminate or impose statutory restrictions on foreign direct investments. While there have been great FDI liberalisation efforts in manufacturing industries, where governments have more readily accepted the benefits of FDI, some services and primary sectors still remain partly off limits to foreign investors, although this varies greatly across economies.

This section uses the OECD *FDI Regulatory Restrictiveness Index* to assess and benchmark market access and exceptions to national treatment. This index gauges the level of restrictiveness of an economy's statutory measures on FDI by looking at four main types of restrictions: 1) foreign equity limitations; 2) discriminatory screening and approval mechanisms for foreign investment; 3) restrictions on the employment of key foreign personnel; and 4) other operational restrictions (e.g. restrictions on branching and capital repatriation or land ownership) (see Box 1.1). The index is not a full measure of the investment climate – a range of other factors come into play, including how FDI rules are implemented. Nonetheless, FDI rules are a critical determinant of an economy's attractiveness to foreign investors, and benchmarking such policies helps governments to see how they compare with their peers in terms of the restrictiveness of their FDI regimes.

Overall, openness to FDI varies greatly across economies and regions (Figure 1.6). Larger economies and those in the Asia-Pacific region tend to be more restrictive on average. The assessed SEE economies, in contrast, are collectively and individually among the most open to FDI as measured by the OECD *FDI Regulatory Restrictiveness Index*. All six SEE economies covered – Albania, Bosnia and Herzegovina, the Former Yugoslav Republic of Macedonia, Kosovo, Montenegro and Serbia – maintain only a handful of restrictions, making their FDI regimes less restrictive than that of the average OECD economy. They also compare favourably against the average of the 22 EU Member States covered by the index. As such, the rules concerning foreign investors on their own are unlikely to constitute a major impediment to attracting investments in most of the SEE economies.

Box 1.1. The OECD *FDI Regulatory Restrictiveness Index*

The OECD *FDI Regulatory Restrictiveness Index* seeks to gauge the restrictiveness of an economy's FDI rules. The FDI Index is currently available for more than 60 economies, including all OECD and G20 members, allowing one to compare FDI policies and identify potential areas for reform. It is commonly used on a stand-alone basis to assess the restrictiveness of FDI policies when reviewing candidates for OECD accession and in OECD *Investment Policy Reviews*, including reviews of new adherent countries to the OECD *Declaration on International Investment and Multinational Enterprises*. The index does not provide a full measure of an economy's investment climate as it does not score the actual implementation of formal restrictions and does not take into account other aspects of the investment regulatory framework, such as the extent of state ownership, and other institutional and informal restrictions which may also impinge on the FDI climate. Nonetheless, FDI rules are a critical determinant of an economy's attractiveness to foreign investors; and the index, used in combination with other indicators measuring the various aspects of the FDI climate, may help to explain variations among economies in attracting FDI.

The FDI Index covers 22 sectors, including agriculture, mining, electricity, manufacturing and main services (transport, construction, distribution, communications, real estate, financial and professional services). For each sector, the scoring is based on the following elements:

- the level of foreign equity ownership permitted
- the screening and approval procedures applied to inward foreign direct investment
- restrictions on key foreign personnel
- other restrictions such as on land ownership, corporate organisation (e.g. branching).

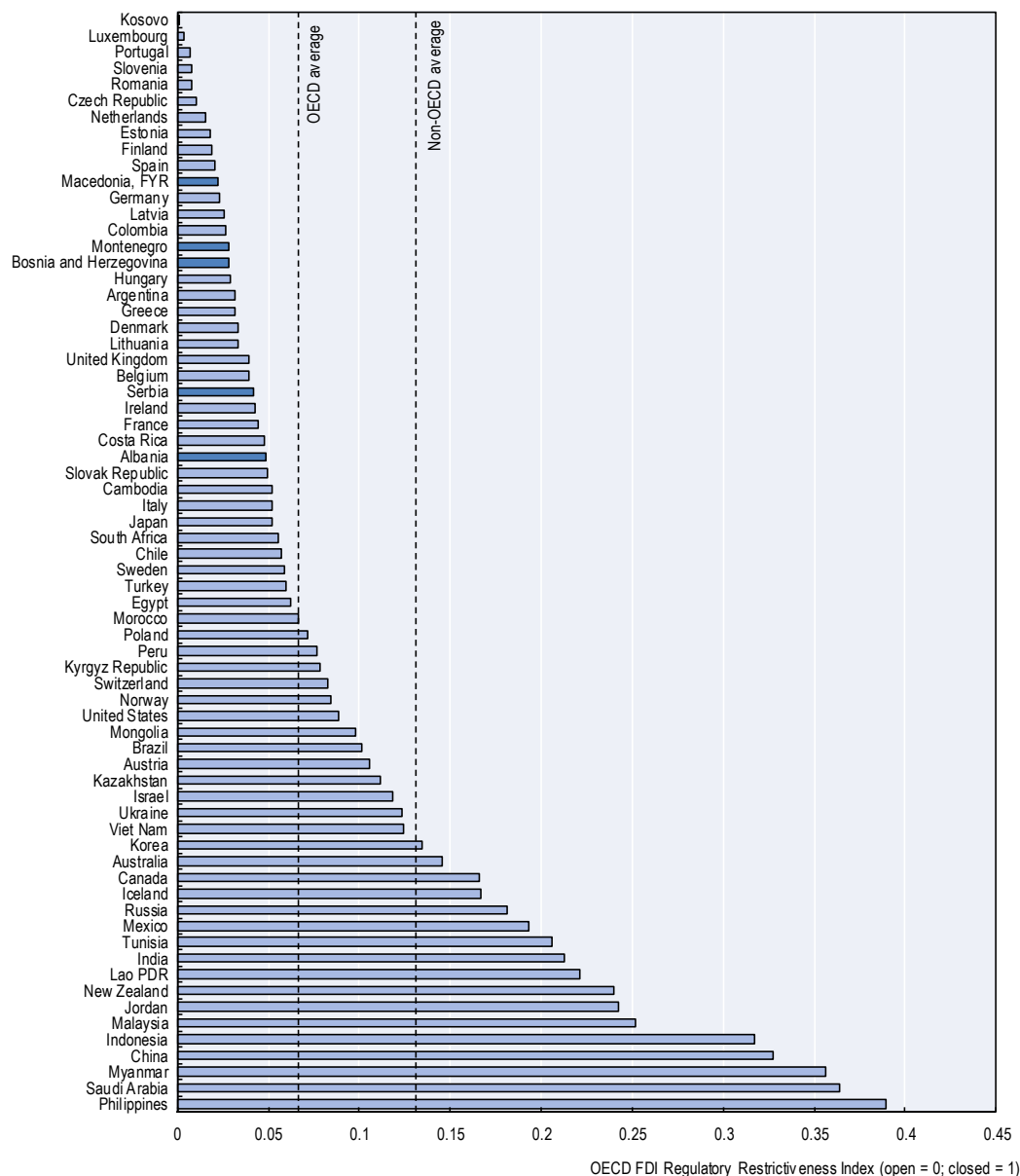
Restrictions are evaluated on a 0 (open) to 1 (closed) scale. The overall restrictiveness index is the average of the 22 individual sectoral scores. The discriminatory nature of measures, i.e. when they only apply to foreign investors, is the central criterion for scoring a measure. State ownership and state monopolies, to the extent they are not discriminatory towards foreigners, are not scored. For OECD and non-OECD country adherents to the OECD *Declaration on International Investment and Multinational Enterprises*, the measures taken into account by the index are limited to statutory regulatory restrictions on FDI, as reflected in their list of exceptions to national treatment and measures notified for transparency under OECD instruments, without assessing their actual enforcement. For non-OECD economies, information is collected through *Investment Policy Reviews* or, when not in the review process, through a dedicated questionnaire. Regulatory information is updated on a yearly basis following the monitoring of investment measures carried in the context of OECD Freedom of Investment Forum for participating economies, and on the basis of ad hoc monitoring for the remaining ones.

Source: Kalinova et al. (2010), *OECD's FDI Restrictiveness Index: 2010 Update*, www.oecd.org/daf/inv/investment-policy/WP-2010_3.pdf. For the latest scores, see: www.oecd.org/investment/index.

The distribution of restrictions by sector is largely consistent across the SEE economies (Figure 1.7), and generally in line with OECD practices. No sector stands out as unusually restrictive. Foreign equity restrictions, which are typically the most common form of restriction across all economies covered by the index, are little used by SEE economies. When they exist, they are mostly concentrated in a few service sectors, notably transport (e.g. in Albania, Montenegro and Serbia) and media (e.g. in Bosnia and Herzegovina, Montenegro and Serbia).⁶ Albania also restricts foreign ownership in fisheries.

These are all sectors which commonly face FDI restrictions in OECD and non-OECD economies. In some of the SEE economies, such as in Montenegro and Serbia, there are also ownership restrictions on foreign investment in legal services, as there are elsewhere.

Figure 1.6. **OECD FDI Regulatory Restrictiveness Index (2016)**



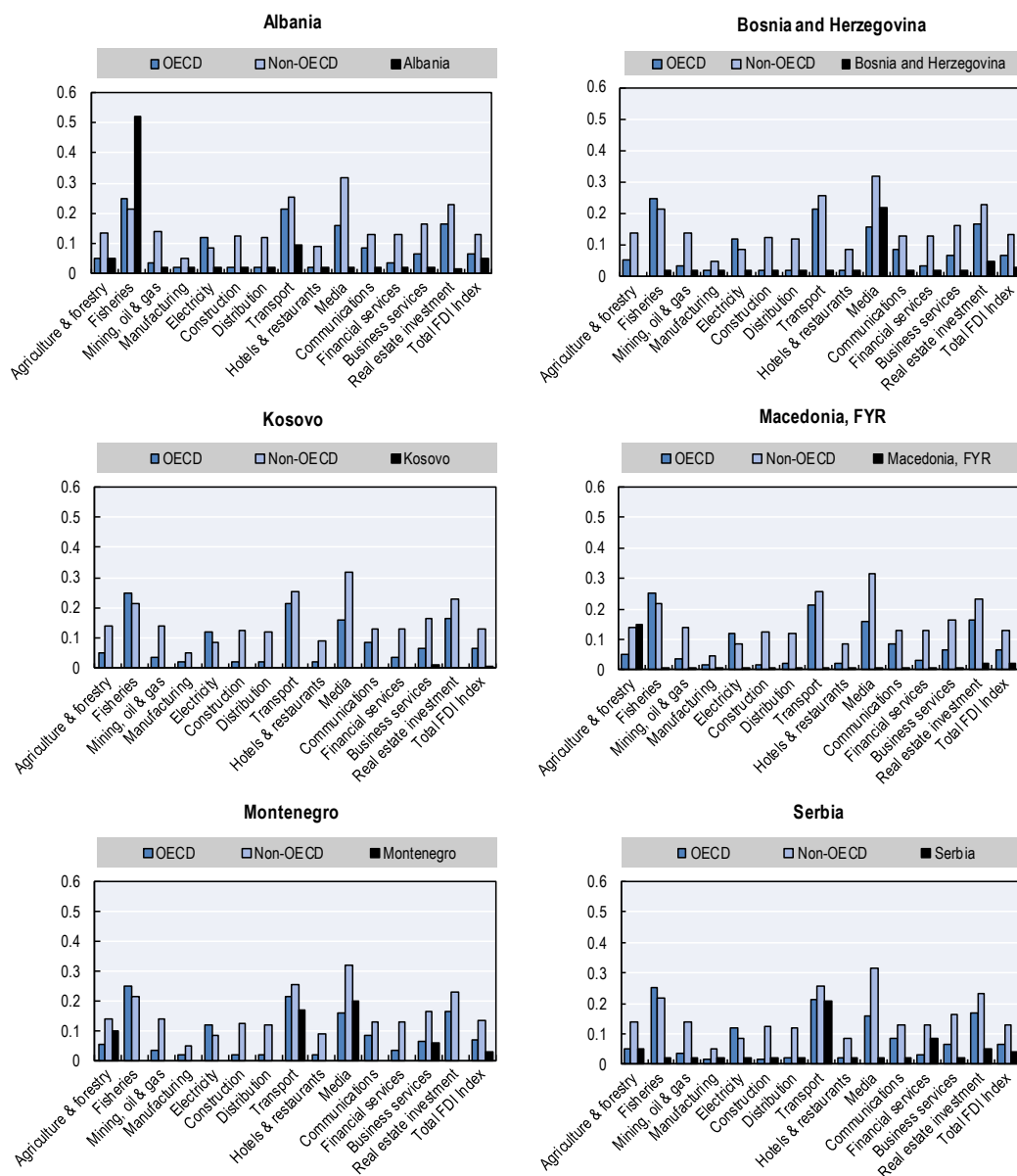
Note: The OECD FDI Regulatory Restrictiveness Index only covers statutory measures discriminating against foreign investors (e.g. foreign equity limits, screening and approval procedures, restriction on key foreign personnel, and other operational measures). Other important aspects of an investment climate (e.g. the implementation of regulations and state monopolies, preferential treatment for export-oriented investors and special economic zone regimes) are not considered. Data reflect regulatory restrictions as of December each year.

Source: OECD (2017b), *FDI Regulatory Restrictiveness Index* (database), www.oecd.org/investment/fdiindex.htm.

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Figure 1.7. OECD *FDI Regulatory Restrictiveness Index*: SEE economies versus OECD and non-OECD, sectoral distribution (2016)

(open = 0; closed = 1)



Note: The OECD *FDI Regulatory Restrictiveness Index* covers only statutory measures discriminating against foreign investors (e.g. foreign equity limits, screening and approval procedures, restriction on key foreign personnel, and other operational measures). Other important aspects of an investment climate (e.g. the implementation of regulations and state monopolies, preferential treatment for export-oriented investors and special economic zone regimes) are not considered. Data reflect regulatory restrictions as of December each year.

Source: OECD (2017b), *FDI Regulatory Restrictiveness Index* (database), www.oecd.org/investment/fdiindex.htm.

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As services are an increasingly vital input to other sectors, limited productivity in service sectors may lead to barriers to competition that may in turn indirectly constrain productivity growth in downstream sectors. Such concerns may be somewhat limited for some SEE economies. In some cases, their domestic legal framework has been reformed to accord equal treatment to foreign investors from Member States of the European Union or, to a lesser extent, from the United States.⁷ This is most often observed in the transport, legal services and real estate sectors. Foreign lawyers in Kosovo, for example, are subject to a reciprocity condition to be able to establish a law firm, unless they are from EU Member States or the United States. In some other cases, preferential market access and treatment of investors may also exist in accordance with commitments under bilateral agreements, albeit not transposed into the domestic legal framework.

In all the SEE economies, FDI in manufacturing sectors is allowed without restrictions, except in security-related sectors (e.g. arms, ammunition) in some cases. Sometimes a horizontal measure applies across the board, such as restrictions on the acquisition of land for business purposes by foreign investors. No economy in the region makes use of discriminatory screening and approval mechanisms for regulating the entry and operations of foreign investors.

Another relatively restrictive sector in the assessed SEE economies and elsewhere is real estate. In the case of the SEE economies, however, existing discriminatory restrictions are mostly limited to real estate ownership by legal entities established abroad, which is either prohibited or subject to reciprocity (e.g. in Bosnia and Herzegovina, Serbia and the Former Yugoslav Republic of Macedonia, except for EU and OECD investors in the latter case) or other operational requirements (e.g. in Albania for commercial property). In most cases, such restrictions can be circumvented by establishing a legal entity in the territory. In other regions, in contrast, restrictions often impinge on locally established foreign-owned investors too. In Montenegro and Kosovo, there are no restrictions on foreign ownership of real estate assets.

A similar regime applies to foreign investors in the agriculture sector in Albania and Serbia, which prohibits foreigners from owning agricultural land, unless they incorporate their businesses locally. More restrictive regimes apply in Montenegro and the Former Yugoslav Republic of Macedonia. In the former, established foreign-owned enterprises are also not allowed to own agricultural land, but long-term leases are available. In the Former Yugoslav Republic of Macedonia, foreign investors are not allowed to own agricultural land and the leasing of agricultural land by foreigners and foreign-owned established enterprises is subject to reciprocity or approval from the Ministry of Justice, in consultation with other ministries. In this case too, long-term leases are possible. In the case of state-owned agricultural land, however, foreign-owned established entities also have the right to apply for their allocation under long-term leases under the same conditions as domestic investors. In Bosnia and Herzegovina, ownership of agricultural land is not permitted for either domestic or foreign investors, while in Kosovo, there is no particular impediment to foreign ownership of agricultural land.

As with real estate investments, foreign ownership of land for business operations is often subject to reciprocity considerations or even minimum capital requirements, as in Albania, for example. These restrictions can likewise be circumvented by establishing a local legal entity. Kosovo and Montenegro impose no restrictions on foreign ownership of land for business purposes.

Improving the legibility of the legal framework for foreign investors would be a welcome step towards improving the overall investment climate. None of the six economies, for instance, has established a foreign investment negative list clearly delimiting the sectors where foreign investment is prohibited or conditioned and outlining which discriminatory conditions apply. Foreign investors still need to review myriad sectoral laws and regulations to understand the market access and treatment conditions applicable specifically to them; often there is no English translation at all – and sometimes official online sources do not even offer the regulations in the original language. While any possible lack of clarity is supposedly less of a concern for investors more familiar with the practices in the region, they make the regime relatively more opaque for potential new investors.

Investor protection is improving

Investor protection is offered across a wide range of policies, laws and regulations that provide investors with the legal guarantee that their rights will be respected and their property protected. By enhancing investor confidence, sound investment protection is likely to increase not just the level, but also the quality of investment, its durability and its contribution to economic development (OECD, 2015a). Key elements of investor protection include guarantees against unlawful expropriation and securing property protection; effective contract-enforcement mechanisms; an independent court system; and alternative dispute resolution mechanisms, including commercial and investment arbitration.

Guarantees against expropriation without fair compensation are among the most crucial investors' rights. Protection should be guaranteed in the regulatory framework through provisions establishing transparent and predictable procedures for expropriation decisions as well as for determining financial compensation. The six SEE economies have all introduced core protection standards in their regulatory framework for investment, with guarantees ensuring that investors' rights will be respected and that their property will be protected against unlawful expropriation (Figure 1.5). While some economies have included such provisions in their expropriation law, others have covered property protection in their investment law or elsewhere. All of them explicitly stipulate that expropriations can only occur for public purposes – with clear definitions of their scope – and with prompt, effective and fair compensation. In Kosovo, the foreign investment law covers both direct and indirect expropriation, as well as any equivalent measure.

The Former Yugoslav Republic of Macedonia and Serbia have unified investment laws covering both foreign and domestic investors, which offer all investors the same core protection provisions, regardless of their origin and nationality. While Albania is currently in the process of unifying its investment law, Bosnia and Herzegovina, Kosovo and Montenegro have kept a specific law for foreign investments. A single omnibus investment law is preferable, however, not only to promote the creation of a single, non-discriminatory regime governing both domestic and foreign investment, but also for the purposes of clarity. All six economies have also signed a large network of bilateral investment treaties, which constitute an additional layer of protection for foreign investors. Authorities should ensure that property protection provisions in their national laws are consistent with international standards of protection, so as to avoid creating legal gaps between national and international frameworks.

In practice, this assessment found that the business community does not perceive unlawful expropriation to be a major concern in SEE economies. There have been some disagreements over amounts of compensation in the past, but the only expropriation cases

relate to infrastructure projects, and those involving foreign companies are extremely rare. In most of the economies, risks for companies are mostly related to the unpredictability of the legal framework, inconsistent application of laws and, at times, modification of existing contracts with foreign companies by the authorities. Similar concerns are raised over land or property ownership, especially in Albania, Bosnia and Herzegovina and, to a lesser degree, Serbia, where disputes can arise due to the lack of clarity of titles and cadastres (US Department of State, 2016; UNCTAD, 2015). While this does not lead to proper expropriation risks, it weakens the overall environment for property protection and sends a less reassuring signal to prospective investors.

The court system has a fundamental role in enforcing contracts and in settling disputes. In contrast to the sound legal frameworks for property protection, the efficiency and reliability of the justice system constitute a greater challenge for investors, whether in terms of the length and inefficiency of procedures, judges' lack of capacity or political interference in court decisions.

In most of the six SEE economies, court systems often lack sufficient resources and adequately trained judges who can handle specialised commercial cases (Figure 1.5). Procedures for enforcing contracts are often overly bureaucratic and cumbersome, and contract disputes are often not resolved quickly or cost-effectively enough. As a consequence, all six SEE economies have significant backlogs of cases, which are likely to restrict companies from investing or expanding their activities in the region. The private sector and independent sources also regularly report a lack of judicial independence, corruption, political pressure and nepotism in the justice system, particularly in Albania, Bosnia and Herzegovina, and the Former Yugoslav Republic of Macedonia (US Department of State, 2016).

Recent justice reforms have greatly improved judges' capacities and independence in Montenegro and Serbia, although the administration of justice remains rather slow (EC, 2016e, 2016f). The creation of specialised commercial courts in these two economies has allowed for the more efficient management of business disputes, although this does not necessarily lead to the timely enforcement of contracts and dispute settlements. All of the other economies, except Kosovo, have specialised divisions or units in their administrative or civil courts dealing with commercial cases. Kosovo used to have a specialised division for cases involving foreign investors but it was closed at the end of 2014 as part of broader justice reforms. The authorities are currently considering reopening it.

Loopholes in the implementation of rule of law principles in Albania remain a concern for the business community. A pending comprehensive justice reform, supported by the international community, is high on the government's reform agenda and is expected to improve the efficiency and autonomy of the judiciary. Smaller-scale reforms to make the court system more efficient and responsive to the needs of the business community are also being implemented in Bosnia and Herzegovina (e.g. digitalising some procedures in the broader context of e-government initiatives), the Former Yugoslav Republic of Macedonia (e.g. training judges, streamlining procedures) and Kosovo (which has plans to reopen a specialised division for cases involving foreign investors).

All six SEE economies should duly implement further reforms to achieve more predictable, fair and transparent contract enforcement, which is a key building block of a sound investment policy framework. This should ensure proper implementation of the rule of law and enhance predictability in commercial relationships by assuring investors that their contractual rights will be upheld promptly by local courts.

Alternative dispute resolution mechanisms are often favoured by the business community to bypass the common difficulties of bringing dispute cases before domestic courts, such as delays in resolving cases, and judges' lack of technical knowledge on commercial matters, as discussed above. In most OECD countries, arbitration plays a primary role as an alternative dispute resolution mechanism, either to settle disputes between foreign investors and host states (i.e. international investment arbitration) or to resolve disputes between two or more businesses (i.e. private commercial arbitration).

The use and recognition of arbitration as an alternative dispute resolution mechanism to settle business disputes varies greatly across the six SEE economies (Figure 1.5). Commercial arbitration is relatively well institutionalised and commonly used in the Former Yugoslav Republic of Macedonia, Kosovo and Serbia, which have all adopted an arbitration law in line with international practice. These three economies have effective private arbitration centres located in their local or foreign chambers of commerce. Montenegro has also recently enacted an arbitration law, although arbitration is still not widely used. Albania, where arbitration is also fairly commonly practised, is in the process of preparing a stand-alone arbitration law. In contrast, arbitration is not yet frequently used in Bosnia and Herzegovina.

Mediation is also increasingly used and practised, especially in chambers of commerce, to settle business disputes. Some of the SEE economies, such as Albania and the Former Yugoslav Republic of Macedonia, are in the process of implementing a grievance mechanism or a business ombudsman to settle disputes, or to avoid emerging conflicts between investors and public authorities escalating into a formal investment dispute.

All six SEE economies have shown a pro-arbitration stance, which is likely to reassure foreign investors that they can easily enforce their rights and contracts in the event of a dispute. They have all ratified the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (ICSID Convention) and the 1958 Convention on the Recognition and enforcement of foreign arbitral awards (New York Convention).⁸ By virtue of their adherence to the New York Convention, foreign arbitral awards are enforced in the six economies, although delays can often be lengthy. There are only a few known cases of investor-state disputes being brought before international arbitration and they mainly involve large investors.

Intellectual property rights laws are in place, but enforcement is a challenge

Effective intellectual property (IP) registration systems and their efficient implementation are crucial components of a sound investment climate. FDI can be an important conduit for technology transfer among economies, and the strength of the IP regime can influence the willingness of foreign technology holders to invest. The protection granted to IP needs to strike a balance between the need to foster innovation and competitive markets on the one hand, and society's interests in having new affordably priced products on the other (OECD, 2015a).

All six SEE economies generally have sound **intellectual property rights laws and regulations** (Figure 1.5), which are in line with international practice. With the exception of Kosovo, they are all members of the World Intellectual Property Organization and have adhered to the main international treaties and conventions on IP rights, such as the Patent Co-operation Treaty, the Paris Convention, the Madrid Protocol and the Hague Agreement.

All the economies have progressively introduced IP-specific legislation over the past five to ten years. Furthermore, almost all of them have recently amended some, or all, of their IP laws and regulations to further align them with EU standards and requirements and to better protect IP rights-holders: Kosovo in 2015, the Former Yugoslav Republic of Macedonia in 2015 and 2016, Serbia in 2015 and 2016, Montenegro in 2016, and Albania in 2016 and 2017. Bosnia and Herzegovina's IP laws are somewhat older; the latest amendments were made in 2010. According to the European Commission (2016), Serbia's and Montenegro's IP laws are well aligned with the EU *acquis*,⁹ while the other four economies still need improvements in some areas.

Although the SEE governments are well aware of the stakes of having a strong IP policy and have developed sound IP regimes, proper **intellectual property rights enforcement** remains a much greater challenge (Figure 1.5). IP-enforcement institutions generally lack human and financial resources, and trademark counterfeiting and design infringement problems persist in all six SEE economies. Many of them have recently amended their IP laws or issued new ones (see above). The challenge for officials lies in their capacity to adjust to the new legal requirements to properly implement these laws. Successful legal reforms require a strong corresponding emphasis on enforcement mechanisms if policies and laws are to have a tangible and positive impact.

Serbia has established enforcing institutions with specialised units that deal with IP issues in different parts of the administration (e.g. police, customs, market inspectorate, tax administration, medicines and medical devices inspectorate). It has also established a permanent co-ordinating body to help improve enforcement records. It has brought IP cases under specialised courts since 2015. The Former Yugoslav Republic of Macedonia has also recently set up a co-ordinating body for IP rights enforcement, but it still lacks the resources to fulfil its duties effectively. Although IP cases are not handled by specialised courts, investors seeking protection for their brands are generally satisfied with the responses they get from the relevant institutions (US Department of State, 2016).

IP policy is still at an early stage in Kosovo. Customs enforcement of IP rights is particularly challenging, as most counterfeit goods are imported rather than produced locally. Market inspectorates are in charge of enforcing IP rights but they are not sufficiently well equipped and the State Intellectual Property Council lacks an active co-ordinating role (EC, 2016c). Montenegro has had an Intellectual Property Office in place for almost a decade, but it is understaffed, has not fully fulfilled its co-ordinating role and has a low enforcement record. IP protection cases are nevertheless handled in specialised commercial courts.

In Albania, numerous institutions are involved in enforcing IP protection, but with little co-ordination and a poor enforcement record. The General Directorate of Patents and Trademarks is responsible for patents and trademarks, while Market Surveillance Inspectorates have recently been established to deal with copyright requirements. However, as of mid-2017 they were still at the recruitment and training phase and not yet functioning. Bosnia and Herzegovina has not yet designed a national strategy to enforce IP rights or an inter-ministerial body to co-ordinate IP rights enforcement (EC, 2016b). The institutions in charge lack the staff, capacity and resources to be fully efficient.

Intellectual property rights awareness raising and access to information play an important role in a broader IP policy. However, with a few exceptions, there is generally little awareness of IP rights and obligations, either among the general public or the six economies' judiciaries.

In Albania, the Former Yugoslav Republic of Macedonia, Montenegro and Serbia, strengthening public awareness is a core component of national IP strategies (Figure 1.5). The relevant institutions have been relatively active in awareness-raising activities, but the budget for awareness raising often remains too low to give satisfactory results and provide the expected impact. Measures have also been implemented to improve access to IP-related information, such as the IP rights helpdesk in Albania, which helps businesses get up to date with relevant legislation, and the establishment in 2015 of an information system for a patent register in Montenegro.

In Kosovo and Bosnia and Herzegovina, IP institutions regularly organise ad hoc awareness-raising workshops on IP rights and protection matters, but they lack the resources and capacities to do so on a systematic or far-reaching basis. The level of IP awareness remains low in these two economies.

The way forward for investment policy

The relatively open environment for foreign investors in the assessed SEE economies and the clear pro-investment stance taken by governments are very positive aspects of the investment climate. The remaining restrictions on FDI are not unusual and should not constitute a major impediment to foreign investment. **Any restrictions in services sectors should be systematically assessed** for their potential implications for economy-wide productivity.

All six SEE economies have sound legal frameworks for investment overall, including for property protection. **Improving the clarity and predictability of their respective legal frameworks for investment**, especially for foreign investors, would greatly help further improve the overall investment climate. No economy has established a foreign investment negative list to clearly delimit the sectors where foreign investment is prohibited or conditioned and outlining which discriminatory conditions apply, for instance. The lack of readily accessible information on these matters in English and online hinders the legibility of the legal framework for foreign investors. Having clear and easy access to all laws and regulations that govern investment could have a very positive impact on promoting an economy as a safe and attractive investment destination.

All six SEE economies should **strengthen their efforts to make their court systems more efficient, more competent and fully independent from the executive**. This would greatly improve the investment and business climate and reduce their reputational risks as investment destinations. Implementation of laws is at times inconsistent or involves lengthy procedures. Having prompt procedures and consistent interpretation of the law is especially crucial when it comes to enforcing commercial contracts. Albania should move ahead with its comprehensive justice reform and Bosnia and Herzegovina should dedicate more effort to improving the rule of law and easing the process of enforcing contracts. Kosovo could consider re-implementing, within its court system, a specialised division for commercial cases, open to both foreign and domestic investors. Where specialised commercial courts are not in place, judges need adequate training to sensitise them to the specificities of commercial cases.

More systematic and prompt enforcement of foreign arbitral awards by domestic courts is needed. Bosnia and Herzegovina and Montenegro need to put more effort into promoting arbitration as a recognised alternative dispute resolution mechanism. Bosnia and Herzegovina could also consider introducing an arbitration law aligned with international standards. Those economies that are setting up a business ombudsman (or grievance mechanism), or considering doing so, could learn from Korea's success (Box 1.2).

Sound legislation for IP protection is in place, but **further emphasis is needed on enforcing IP rights and raising IP awareness**. Enforcing institutions should be adequately staffed and trained in all six economies. Co-ordinating bodies should be established in Albania, Bosnia and Herzegovina and Kosovo, while those in the Former Yugoslav Republic of Macedonia and Montenegro should be given more resources. More resources should also be allocated to IP awareness-raising activities and access to information in all six economies.

Box 1.2. Good practice: The Office of the Foreign Investment Ombudsman in Korea

The Office of the Foreign Investment Ombudsman (OFIO) was created within the Korea Trade-Investment Promotion Agency in 1999 during rapid liberalisation of the foreign investment regime. OFIO focuses on post-investment services for foreign investors and provides on-site consultation in areas covering finance, taxation, accounting, intellectual property rights, construction and labour. Through its Home Doctor System, OFIO resolves grievances reported by foreign investors, not only directly by sending experts who are licensed and experienced to business sites, but also by taking pre-emptive measures to prevent future grievances by encouraging systemic improvements and legal amendments.

In cases where systemic changes are required, OFIO reports to the government's highest foreign investment authority, the Committee on Foreign Direct Investment. OFIO also uses other channels such as the Regulatory Reform Committee and the Presidential Committee on National Competitiveness to push for government interventions or changes in the enforcement decrees of relevant laws. Over 4 700 cases have been reported to OFIO during the past decade and many of them have prompted systemic changes and government interventions. As the system has matured, the resolution ratio – which was around 25% in the beginning – improved to reach over 90% in 2007.

Source: InvestKorea (n.d.), InvestKorea, www.investkorea.org/en/index.do.

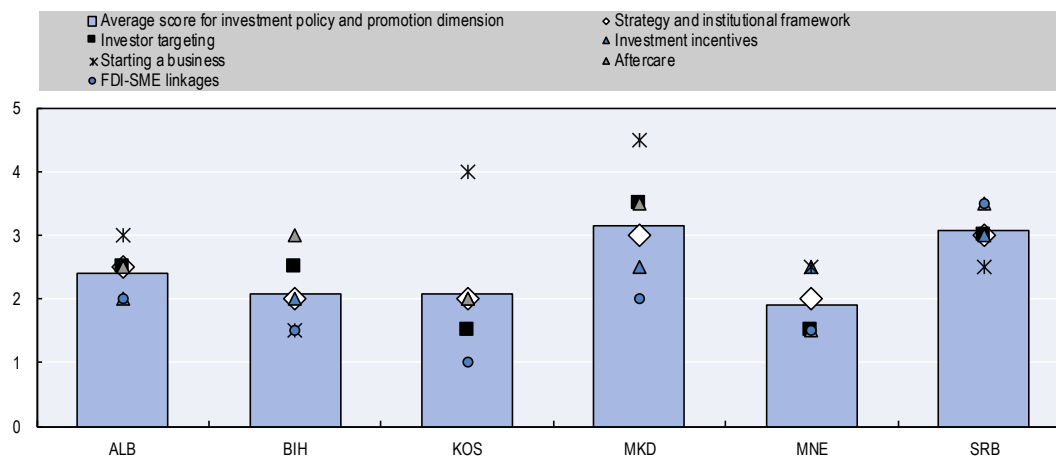
Investment promotion and facilitation

Investment promotion and facilitation measures can be powerful means of attracting investment and maximising its contribution to development, but their success depends on the quality of investment-related policies (OECD, 2015a). Effective investment promotion and facilitation requires a careful calculation of how to employ resources most effectively to attract FDI, make it easy for investors to establish or reinvest, and ensure that these investments create linkages with domestic companies and contribute to local economic development.

The investment promotion and facilitation sub-dimension is assessed through six qualitative indicators (Figure 1.8). They are analysed below in four sub-sections, which look at: 1) strategies and institutional frameworks; 2) investment promotion services and activities (assessed through the investor targeting and investment incentives indicators); 3) investment facilitation services and activities (assessed through the starting a business and aftercare indicators); and 4) FDI-SME linkages.

As the scores indicate, the quality of the institutional framework for investment promotion and facilitation varies across the region. Strategies to promote and attract FDI are well established, but there is scope to enhance their implementation further, as well as to increasingly integrate business linkages into these strategies and into the respective investment promotion and facilitation activities.

Figure 1.8. **Investment promotion and facilitation: Sub-dimension average score and indicator scores**



Note: See the methodology chapter for information on the *Competitiveness Outlook* assessment and scoring process.

StatLink <http://dx.doi.org/10.1787/888933702915>

Investment promotion strategies and institutional frameworks are in place

When establishing a formal structure to conduct investment promotion activities, most jurisdictions choose to establish an investment promotion agency (IPA) – although many functions can also be carried out by existing public structures. One size does not fit all and different forms of IPAs and institutional settings for investment promotion can match different government objectives. To be efficient and fulfil their missions, IPAs should have a clear mandate and be adequately staffed and funded (OECD, 2015a). As highlighted in the investment policy section, private investment should be recognised as a key component of governments’ overall strategy for economic development.

All six SEE economies have created a national IPA with a mandate to promote and facilitate inward FDI. However, the IPAs vary in their objectives in terms of attracting investment, and the adequacy of their resources to achieve these objectives. Overall, economies could do more to strengthen their IPAs’ capabilities, increase resources and improve co-ordination with other relevant authorities.

The IPAs in the six economies differ in their mandates as well as in their levels of human and financial resources (Table 1.2). The Albanian Investment Development Agency (AIDA), the Kosovo Investment and Enterprise Support Agency (KIESA) and the Development Agency of Serbia (RAS)¹⁰ have the widest scope of activities, as their mandates encompass export promotion and SME development, in addition to investment promotion. The Former Yugoslav Republic of Macedonia’s IPA (Invest in Macedonia) undertakes both investment and export promotion, while the Foreign Investment Promotion Agency of Bosnia and Herzegovina (FIPA) and Montenegrin Investment Promotion Agency (MIPA) focus solely on investment promotion. Staffing levels do not necessarily reflect these differences, however. For example, KIESA has only 18 employees, which makes it challenging for the agency to fulfil all its functions thoroughly. Apart from FIPA and Invest in Macedonia, all of the agencies are somewhat understaffed given their objectives and expectations. Budget constraints are a common challenge for IPAs in many other regions as well.

Table 1.2. **Investment promotion agencies: Number of employees and mandates**

	Number of employees	Investment promotion	Export promotion	SME development	Regional development
ALB (AIDA)	28	✓	✓	✓	
BIH (FIPA)	32	✓			
KOS (KIESA)	18	✓	✓	✓	
MKD (Invest in Macedonia)	82	✓	✓		
MNE (MIPA)	5	✓			
SRB (RAS)	70	✓	✓	✓	✓

Source: OECD compilation based on national sources.

StatLink  <http://dx.doi.org/10.1787/888933702953>

Most of the IPAs have annual strategic plans and objectives that are aligned with national investment strategies, as well as an obligation to report annually to their governing authority on their activities and spending. Some of the IPAs have achieved a more sophisticated level of planning – with detailed target objective definition – and monitoring (i.e. seeking feedback on their performance). The Former Yugoslav Republic of Macedonia and Serbia have clear target sectors in their strategic plans, which enable them to focus their resources accordingly. AIDA conducts annual surveys as part of its monitoring process. On the other hand, KIESA does not have a formal strategy in place and does not conduct systematic reporting activities. Overall, all the agencies would benefit from assessing their performance more systematically against clearly defined strategic goals and using internal and external evaluation processes (such as internal reporting on objective-related performance indicators and investor satisfaction surveys).

Cases of successful investment attraction often highlight the importance of a whole-of-government approach. Effective co-ordination mechanisms among the various authorities involved in investment promotion are of strategic importance. Co-ordination should be effective both horizontally, i.e. with different line ministries and other relevant government organisations; and vertically, i.e. with local government authorities and sub-national agencies. The latter is particularly important for investment facilitation.

Most of the economies try to ensure effective horizontal co-ordination. In the Former Yugoslav Republic of Macedonia, investment promotion activities are undertaken jointly by the IPA and the Directorate for Technological Industrial Development Zones (DTIDZ), with clear co-ordination mechanisms and a common client relationship management tool to facilitate the exchange of information. In the other economies, horizontal co-ordination remains comparatively weak. In Kosovo and Montenegro, communication channels could be improved between the IPA and line ministries as well as other key stakeholders (e.g. Economic Chambers in Kosovo and the Secretariat for Development Projects and the National Investment Commission in Montenegro).

As regards vertical co-ordination, all economies would benefit from reinforcing the means and mechanisms to enable smooth communication between their IPA and other relevant public organisations. In Albania, where the IPA also has a role as a one-stop-shop for strategic investments, there is room for improvement on this aspect. In Bosnia and Herzegovina, there is a lack of co-ordination between FIPA and numerous bodies involved in FDI attraction activities (UNCTAD, 2015). In particular, there is no formal co-operation mechanism between FIPA and the Ministry of Economic Relations for Investment Promotion of the Republika Srpska, which also undertakes investment promotion.

At the regional level, the six SEE economies are committed to improving co-ordination to design and implement a joint investment reform agenda. An important objective of the Multi-Annual Action Plan for a Regional Economic Area in the Western Balkan Six is to improve the region's attractiveness to investors. To this end, the economies foresee a common platform for investment promotion.

Investment promotion measures and activities need further strengthening

Effective investment promotion draws on the strong points of an economy's business environment to highlight profitable investment opportunities. As examined below, it also deals with more specific measures to attract FDI that respond to national development objectives, including systematic targeting of potential investors and the granting of well-designed and transparent financial and non-financial incentives.

Investor targeting is one of the key functions of IPAs. It is one of the most resource-intensive, but also one that can lead to the best results in terms of securing actual FDI projects. It refers to direct marketing techniques for targeting potential investors from specific industries, activities, companies and markets, in line with national priorities. It is the opposite of reactive promotion, in which IPAs answer investor-initiated inquiries. A clear strategy is needed to guide the IPAs' investor-targeting activities, as there is a risk associated with focusing on specific sectors or "picking winners" if these decisions are based on political agendas, rather than on carefully crafted economic rationales.

Although IPAs in the six SEE economies usually have identified economic sectors and markets for FDI attraction, they tend to spend most of their time and resources on reactive promotion. As examined below, a few of them – notably the Former Yugoslav Republic of Macedonia and Serbia – have put in place more sophisticated mechanisms to target potential investors in a proactive and systematic manner. Some of the SEE economies also tend increasingly to use their network of embassies and representations abroad for investment promotion purposes (e.g. Bosnia and Herzegovina, Serbia).

The Former Yugoslav Republic of Macedonia has a well co-ordinated targeting strategy in place. DTIDZ and, to a lesser degree, Invest in Macedonia, regularly reach out to potential investors in the economy's priority industries. This includes efforts to attract high value-added manufacturing investors into its special economic zones (OECD, 2017a). The two agencies are assigned geographical areas for their targeting activities, but also rely on sectoral knowledge. This system seems to avoid the duplication of activities and is supported by a common client relationship management system. However, the system is also complex (e.g. five ministers without portfolio also have a role in attracting investors) and risks not maintaining an optimal distribution of sector competences.

RAS has designed a new investment promotion strategy for Serbia and has adjusted targeting activities to its new institutional set-up. It has identified sectors for FDI attraction based on Serbia's competitive advantages, giving priority to projects that have a potential beneficial impact on SME development, export promotion and regional development. It has also defined objectives for investor targeting with expected values, and systematically follows up missions abroad.

In Albania, AIDA's staff members have been allocated sectoral competences to conduct investor targeting in priority sectors. However, the number of staff is currently insufficient to make it a systematic activity. In Bosnia and Herzegovina, FIPA also conducts some limited targeting. However, the bulk of its efforts are dedicated to image building, as providing a comprehensive and consistent message to investors is a key

challenge in an economy that is often perceived as fragmented. Overseas missions are thus mostly aimed at country branding and promoting key economic sectors in general. There is nonetheless an established mechanism to follow up FIPA's overseas missions. Investment generation and targeting in both Albania and Bosnia and Herzegovina mostly focus on specific, ready-made projects, usually prepared by other ministries. This is a common approach in the region, despite a gradual shift towards sector-wide promotion. It makes a good selling point for some specific investors, but targeting should not be limited to this practice, as the majority of businesses appreciate more flexibility as to where and how their investments will be channelled.

Kosovo and Montenegro have smaller agencies which conduct general marketing campaigns to promote the image of their economies and their key investment sectors. As in the other five SEE economies, sectors and markets are identified relatively well and included in government strategies, but IPAs have less capacity to conduct comprehensive and systematic investor outreach.

Investment incentives can be defined as measures to influence the size, location or industry of an investment project, by affecting its relative cost or by altering the risks attached to it (OECD, 2004). Tax incentives for investment are widely used in numerous regions, including SEE, to stimulate investment in general and FDI in particular. While the evidence tends to indicate a limited investment response to a lower tax burden relative to the revenue forgone, governments need to build their incentive schemes on a strong overall investment environment and embed them in a coherent and long-term national development strategy to ensure their optimal use (OECD, 2015a). This indicator does not evaluate the suitability of each of the incentive regimes, however; instead it looks at whether they are non-discriminatory, transparent and well co-ordinated.

All six SEE economies provide tax incentives to investors, equally to both foreign and domestic investors in most cases (Figure 1.8). Incentives usually aim to attract investors in specific sectors or to remote areas, or simply stimulate job creation and high value-added projects. Governments should make sure they provide a uniform incentives regime for domestic and foreign investors to ensure a level playing field for all businesses. A simple and predictable tax regime provides greater clarity for investors, leaves less space to discretionary decisions and is easier for the tax administration to manage. This is the case in Serbia, where only one tax break exists, and for which the criteria are simply based on the number of people employed and the amount invested. Additional incentives are provided for specific sectors and in special economic zones (OECD, 2017a).

In other economies, such as the Former Yugoslav Republic of Macedonia and Montenegro, the incentive schemes are more complex and multi-layered (Box 1.3); additional incentives are provided by DTIDZ in the Former Yugoslav Republic of Macedonia and Montenegro (OECD, 2017a) and by municipalities in Montenegro. In the case of Albania and the Former Yugoslav Republic of Macedonia, some incentives are granted following case-by-case negotiations and are consequently not always publicly available – although they are in principle under the scrutiny of parliament. In Kosovo, incentives are usually granted automatically, but the rates can be discretionary at times and adjusted through by-laws. In Bosnia and Herzegovina, eligibility criteria for incentives are well-defined, but the regime is overly complex and distinct incentives are applied in the different sub-national entities, with little national oversight.¹¹ This not only makes the overall incentive scheme rather confusing for investors, but it may also lead to harmful internal and regional tax competition. In all these economies, the renewal of incentives is often permitted without appropriate scrutiny.

Box 1.3. Zone incentives in the Former Yugoslav Republic of Macedonia

The Former Yugoslav Republic of Macedonia offers zone investors a variety of tax and non-tax incentives. These include corporate tax exemptions, exemption from personal income tax for zone employees and exemption from customs duties for equipment and spare parts. All tax incentives are offered uniformly across all zone investors. Furthermore, tax incentives are zone-specific and thus available only to investors who have zone status.

The zones also offer non-tax incentives, including the provision of on- and off-site infrastructure and services. Most non-tax incentives are granted to all investors, but some are only offered on a selective basis depending on factors such as the size of the investment and the number of people employed. Most investors have noted the benefits of being able to design and build facilities according to their exact specifications inside the zones. The provision of immediate good-quality power and utility connections is another important incentive for locating inside the zones.

In addition, the zones offer one-stop-shop services (issuing building and operational permits, customs outposts in the zones, zone infrastructure maintenance and upgrades), aftercare, business opportunity analysis (identifying project-specific location factors, cost analysis, identifying supplier bases and detailed due diligence), and opportunities to connect with domestic enterprises through a supplier database.

Since most of these incentives are zone-specific, they offer considerable advantages to investors inside the zones. It is therefore not surprising that the zones have played an important role in attracting significant manufacturing investment to the economy since their establishment in 2007. Today they account for a large share of all manufacturing FDI inflows, domestic manufacturing activity and exports (40%). However, key questions remain over the cost-effectiveness of the zone policies, how sustainable zone investments will be once the incentives expire, and how spillovers from these investments can be strengthened through backward linkages, education and skills.

Source: OECD (2017a), “Tracking special economic zones in the Western Balkans: Objectives, features and key challenges”, www.oecd.org/south-east-europe/SEZ_WB_2017.pdf.

To increase transparency and good governance, tax incentives should be included in the main body of tax law and under the authority of the tax administration. All tax incentives are integrated in the main tax law in Serbia, whereas they are included in by-laws or sectoral laws in the other SEE economies. In the Former Yugoslav Republic of Macedonia, incentives are divided between the Profit Tax Law and the Law on Technological Industrial Development Zones. In Bosnia and Herzegovina, tax incentives for investment are included in the separate entities’ laws. While the oversight of investment incentives is the responsibility of the tax administration in all six economies, co-ordination issues may occur when IPAs, zones authorities or municipalities have the authority to grant or negotiate separate incentives.

Investment incentives can mean forgoing significant revenue and depriving governments of sufficient resources to devote to areas reinforcing overall competitiveness and making growth more inclusive and sustainable, such as education, health and infrastructure. It is thus important for authorities to conduct a thorough analysis of the effectiveness and cost-efficiency of tax incentives (and the way they are designed) to distinguish between beneficial and wasteful tax incentive programmes. The Bosnian and Serbian authorities are the only ones to report undertaking proper cost-benefit analyses, but neither has made them publicly available. While statements on tax expenditures are publicly released on a regular basis in the region, none highlights the beneficiaries of tax incentives.

Effective co-ordination among tax policy makers and IPAs, as well as local authorities, is crucial for assessing the costs and benefits of incentives and to identify options for their smarter use and better design. Governments should also conduct such evaluations systematically *ex post* to assess the extent to which, and at what cost, tax incentives meet their intended objectives. This is currently not the case in these SEE economies. Going forward, it is also important to address the harmful race to the bottom tax competition that is taking place in the region via the use of tax incentives.

Progress has been made with regard to investment facilitation services and activities

Investment facilitation includes all the support that authorities can provide to reduce potential obstacles once an investor has decided to invest. It begins as soon as an investor shows interest in a location. Aftercare measures are also part of facilitating investment, as they can influence a company's decision to maintain or expand its activities. Aftercare is grounded in a solid public-private dialogue that may eventually lead to policy reforms.

Most of the six SEE economies have undertaken reforms over the past few years to facilitate investment by reducing the cost of **starting a business** (Figure 1.8). This is illustrated by the progression by five of the economies up the rankings of the annual World Bank *Doing Business* survey (World Bank, 2017a). To achieve this improvement, governments focused on simplifying regulations and streamlining processes at back-office level, establishing agencies as one-stop-shops or single windows for business registration (and even beyond in some cases), using IPAs to make it easier to navigate through the different requirements and procedures, and offering online registration services.

The economies have worked to streamline their regulations and reduce the number of steps and fees associated with registering businesses. For example, Serbia has simplified its procedures to deal with construction permits, starting a business, registering property and paying taxes. Kosovo has reduced the number of steps in its business registration procedure and removed the minimum capital requirement and all administrative fees. Montenegro is currently working to streamline its specific procedures contained in its sectoral regulations. In Bosnia and Herzegovina, regulations remain fairly complex, as they differ among the main sub-state entities. Moreover, within the Federation of Bosnia and Herzegovina, regulations and procedures vary from canton to canton. According to the *Doing Business* survey, the Former Yugoslav Republic of Macedonia's process to establish a business entity is the most straightforward in the region and the economy ranks fourth out of 190. This is the result of years of reforms, and work is continuing to reduce the administrative burden on businesses still further.

Establishing a one-stop-shop (OSS) or single window is a good practice to facilitate investment. This provides a single entry point to obtain information and undertake administrative procedures, and can significantly cut down investors' transaction costs. However, to be truly effective and avoid creating "one-more-shop", back-office procedures need to be streamlined. All of the economies have established agencies to offer an OSS, either at national or sub-national level: the National Business Centre in Albania, the Kosovo Business Registration Agency, the Central Register in the Former Yugoslav Republic of Macedonia, the Central Register of Business Entities in Montenegro and the Serbian Business Registers Agency. In Bosnia and Herzegovina, there is no such agency at the state level, but a single business registration agency started operations in the Republika Srpska in 2014.

All these agencies are separate entities, which means that the OSS is not located within IPAs. Few of the SEE IPAs act as a one-stop-shop, except in Albania, where AIDA hosts a dedicated OSS for strategic investment projects that benefit from a fast-track business set-up process. In Serbia, RAS acts as the co-ordinator of all administrative processes, interfacing with local authorities for projects of national significance. In other economies, the IPAs' role of facilitating the administrative procedures to start a business is limited to centralising and providing the necessary information to foreign investors, and redirecting them to the relevant authorities.

Most of the agencies which act as OSSs gather together all the procedures involved in registering a business. However, they can also go beyond business registration and group a wider range of services under the same roof. In Albania, the National Business Centre's services include – in addition to business registration – tax registration, social insurance, health insurance and employee registration, all through a single application procedure. In Montenegro, companies can apply for licences and permits at the same time as they register. The Former Yugoslav Republic of Macedonia is currently creating an OSS that will provide services for business registration, licensing and permit delivery. It is expected to be in operation by 2020.

Albania has also launched an online service for registration and electronic notifications of balance sheets and financial reports. To register online, companies need to have an electronic signature and go through an authentication process. The website is not available in English, however, making it less user-friendly for foreign investors. Currently, most companies still choose to register in person. Although they do not offer online registration services, Kosovo, Montenegro and Serbia have put the registration forms online – but in Serbia, forms are only available in Serbian.

Aftercare includes a broad set of measures to keep existing investors satisfied and encourage them to expand their activities or reinvest in new ones. It has increasingly become a key function of IPAs worldwide, as helping investors overcome the challenges they face in their daily operations is at least as important as attracting new investments, and is often also less costly from an IPA perspective. Effective aftercare is primarily about maintaining a regular and constructive dialogue with the private sector – either through formal dialogue platforms or targeted individual field visits – to collect feedback from businesses on recurrent issues affecting their activities and involve them in policy design and reform. Dialogue between the public and the private sectors is usually open and regular in all six SEE economies, but more sophisticated and proactive aftercare measures vary greatly from one economy to another (Figure 1.8).

Governments in the SEE economies have increasingly recognised the value of maintaining an open dialogue with the business community and have all made improvements in this area. All six economies have established effective public-private dialogue platforms (e.g. the Foreign Investors Council or National Economic Council) that attract high-level attention and meet on a regular basis, both to inform the private sector of planned policies and to collect investors' feedback on proposed reforms or existing challenges. In most of the economies, these platforms involve large multinational enterprises (MNEs), but governments could consider extending dialogue mechanisms to all types of businesses, including SMEs.

While most of the economies have a legal obligation to publish draft laws on their websites before they are adopted, e-consultation platforms to collect feedback on legislative proposals have been established in Bosnia and Herzegovina, the Former Yugoslav Republic of Macedonia and Serbia. In all six SEE economies, however,

consultations are not conducted systematically and often leave stakeholders with a very limited period of time to provide comments (e.g. only seven days in Serbia). In practice, the public-private dialogue platforms described above are usually preferred for discussing new laws in the region. They do not provide access to all potentially affected stakeholders, however, and should thus be supplemented with effective and systematic online consultation mechanisms with longer deadlines for feedback.

Targeted aftercare activities can also have a potentially large impact on retaining investors or encouraging reinvestment. They can also provide opportunities to strengthen foreign investors' links to local suppliers and encourage them to increase their roles in MNEs' supply chains (see section on FDI-SME linkages below). There is evidence that longstanding foreign investors, who know the local context better, are more inclined to use domestic suppliers instead of sourcing internationally (Farole and Winkler, 2014). Aftercare thus supports the double purpose of anchoring foreign investors more firmly in the local economy and enhancing their positive spillovers.

In the Former Yugoslav Republic of Macedonia, the Directorate for TIDZ is particularly active in providing tailor-made aftercare services to the foreign investors located in its special economic zones, in order to identify potential challenges and explore expansion opportunities (OECD, 2017a). The government has also established the Learning from the Business Community initiative, which includes field visits and discussions with companies, focusing mostly on domestic and smaller businesses. In Serbia, aftercare services include mechanisms to explore reinvestment opportunities, remove obstacles to business expansion and identify local suppliers. Both economies also have online databases of domestic suppliers, but Invest Macedonia and RAS could make more systematic use of surveys to ensure that the challenges faced by companies of all sizes are well understood.

In Bosnia and Herzegovina, the authorities are strengthening aftercare both at state and entity levels. Representatives of FIPA and of the Republika Srpska's Ministry of Economic Relations have established a contact point for investors in each municipality to track reinvestment opportunities and plans and discuss investment climate challenges. FIPA conducts regular company visits throughout Bosnia and Herzegovina; however, while it forms good partnerships with municipalities and cantons, horizontal and vertical co-ordination remains the key challenge for effective responses to investors' concerns. In Albania, aftercare is a relatively new function for AIDA, although it has started conducting surveys with foreign investors and some ad hoc field visits. AIDA is also training staff members in municipalities on business facilitation matters. Aftercare still remains too focused on informing investors about AIDA's services, however, and better co-ordination with relevant ministries and agencies is needed to ensure that obstacles faced by investors are more systematically addressed.

In Kosovo and Montenegro, IPAs have more limited staff and resources to conduct extensive field visits and company interviews. KIESA nevertheless surveys 300 companies in Kosovo every year and submits an aftercare report to the Economic Council for advocacy purposes. In Montenegro, while MIPA offers barely any aftercare, the Secretariat for Development Projects carries out some related tasks. Interactions with the business community are mostly conducted through its Foreign Investors Council. Overall, targeted aftercare activities should focus on the investors who have the greatest propensity to expand their activities and on those with the highest developmental impact (notably in terms of job creation and linkages with the local economy), especially in those economies where the IPA's resources are limited. The focus should be on the same sectors as those chosen for investor targeting.

Identifying recurring problems faced by investors through aftercare should ultimately contribute to policy advocacy by IPAs, which can be a powerful instrument to bolster reforms and enhance the business environment by leveraging the private sector's feedback. In most of the economies, aftercare is used for policy advocacy purposes, but rarely on a systematic basis. Any policy reforms generated by these activities remain ad hoc. The private sector reports that authorities in the region are usually open to receiving comments when designing new laws, but they do not systematically take them on board.

There is scope to enhance FDI-SME linkages

Backward FDI-SME linkages occur when domestic firms become suppliers or sub-contractors to MNEs. They are the channel through which FDI spillovers can be maximised, owing to the productivity gains resulting from the transfer of knowledge and technology from foreign affiliates to domestic companies (Farole and Winkler, 2014; UNCTAD, 2010).¹² Creating such linkages can foster the potential embodied in local SMEs, but also serves the purpose of attracting and retaining investment, as it allows foreign investors to be more firmly anchored in the local economy, to adopt a longer-term investment strategy and to be inclined to reinvest or expand activities.

FDI-SME linkages are determined by a large number of factors, but depend first and foremost on the availability and capacity of domestic companies. An important first step is to create a business environment that is favourable for both domestic and foreign firms, supplemented by sound SME development policies and programmes to maximise their absorptive capacities. Other more proactive measures can also be taken by governments in general and IPAs in particular to encourage linkages and interactions between MNEs and SMEs – and attract FDI with a higher spillover potential.

Linkages between foreign investors and domestic firms are relatively rare in the six SEE economies (Figure 1.8). This is largely explained by the lack of capacity among local suppliers, but is also due to the nature of the FDI which, in many cases, is natural-resource based or export-oriented and geared towards global value chains. Governments do not seem to view creating business linkages as a top priority – except for Serbia, which has made it an objective of its investment promotion strategy. Serbia has a comprehensive national SME development strategy in place, implemented by both RAS and the SME department within the Ministry of Economy. RAS occasionally organises “meet the buyers” fairs to promote business partnerships and arranges more focused matchmaking meetings on request. A database of 3 000 potential suppliers is also available to foreign investors.

RAS is increasingly taking advantage of the merger of its investment promotion and SME development functions, as illustrated by the launch in 2017 of its supplier development programme aiming to support local suppliers in meeting MNE requirements in terms of production processes, quality standards, quality control and managerial practices. This programme is an important step forward, as opportunities to create linkages mainly depend on the availability of an adequate domestic supply-side capacity. The extent to which SMEs are capable of responding to the needs of MNEs determines their ability to serve as domestic suppliers.

In Albania, SME development focuses almost exclusively on formalising small businesses and providing them with financial schemes. AIDA is the main SME support agency, but its linkage activities remain occasional and not yet well co-ordinated. In the Former Yugoslav Republic of Macedonia, there is reportedly a tendency by the government to prioritise foreign investors rather than local firms. Obstacles to SME

development are not well identified and government activities on this matter are too dispersed. Although AIDA and Invest in Macedonia only conduct matchmaking activities occasionally, databases of potential local suppliers are available to MNEs in both economies (e.g. listing 650 suppliers in the Former Yugoslav Republic of Macedonia).

In Bosnia and Herzegovina, many activities are undertaken at the entity and local level to support SMEs, but there is no strategy at the national level, and only limited support for promoting linkages with foreign investors. Similarly, there are few initiatives to encourage FDI-SME linkages in Montenegro and Kosovo, where matchmaking initiatives are mostly driven by the private sector. Montenegro has a distinct agency dedicated to SMEs (NASME) and linkages are mostly encouraged through creating business zones to support SME incubation and cluster development. KIESA has a mandate to support SME development but synergies with its investment promotion activities are limited.

Governments in the six SEE economies could consider better aligning their FDI attraction strategy with national development objectives and existing local absorptive capacities. This is being done in Serbia, where RAS has redesigned its FDI attraction strategy in line with other development objectives, including regional development and linkage creation. In contrast, the Former Yugoslav Republic of Macedonia has decided to target high value-added FDI projects that support a competitive environment, even if they are less likely to generate linkages with domestic firms. AIDA and KIESA could take more advantage of having both functions – investment promotion and SME development – under the same roof to help create FDI-SME linkages. They could align their investment promotion and SME development strategies and objectives to ensure that they are mutually reinforcing.

The way forward for investment promotion and facilitation

There is scope to **ensure that IPAs' capacities and resources are better aligned with their mandates**. All six SEE economies have well-established IPAs, although their mandates, resources and capacity to influence government decisions vary greatly. While the Former Yugoslav Republic of Macedonia and Serbia have a coherent and well co-ordinated strategy to target and attract FDI, Kosovo and Montenegro have fewer resources at their disposal to conduct proactive promotion. IPAs in Albania and Bosnia and Herzegovina have improved greatly – but several key functions, such as investor targeting and aftercare, are still at an early stage of development.

A sectoral approach to investment promotion should be fostered in the future. While KIESA and MIPA should focus their investor targeting activities on a few well-identified economic sectors, AIDA, FIPA, Invest in Macedonia and RAS should increasingly move away from the promotion of ready-made projects towards sector-wide promotion and internalise solid sectoral competences.

Investment incentives are widely used in the region and **all six governments need to make more efforts to ensure that companies operate on an equal footing** and are fully aware of what to expect and under which conditions.

Some minor procedural issues for starting a business remain to be addressed in some economies. Starting a business is generally not complicated, with the notable exception of Bosnia and Herzegovina, where a complex and uncoordinated institutional framework makes it complicated and cumbersome for new investors to establish. A single window for business registration or an online registration system should be established, and measures taken to improve clarity and transparency for prospective investors. Kosovo, the former Yugoslav Republic of Macedonia, Montenegro and Serbia should

also consider establishing online business registration, while Albania should make its system available in English.

More systematic approaches to aftercare services should be introduced in the six SEE economies. Aftercare services in Albania, Bosnia and Herzegovina, Kosovo and Montenegro should be reinforced, notably through more regular surveys, interviews and company visits, and enhanced inter-agency co-ordination allowing for swift government responses to investor concerns. Canada and the United Kingdom offer interesting examples of international good practice in this area (Box 1.4). All six economies need to make efforts to include domestic and small businesses more systematically in their consultations with the private sector and ensure that the feedback collected leads to effective policy reforms.

Government strategies should ensure that FDI serves the purpose of local economic development by creating linkages with SMEs. More efforts are required by all the SEE governments – though to a lesser degree in Serbia, which is more advanced in this area – to establish comprehensive business linkage programmes that include sector-specific training for SMEs and regular matchmaking with foreign affiliates. Bosnia and Herzegovina, Kosovo and Montenegro should also make supplier databases available to foreign investors. IPAs such as AIDA and KIESA, which also include SME development, should maximise synergies between their departments. Others should strengthen co-ordination with SME-related institutions and consider focusing their promotion efforts on sectors and activities that can generate more linkages.

Box 1.4. Good practice: Aftercare in Canada and the United Kingdom

Invest in Canada’s aftercare programme

Invest in Canada’s aftercare programme regularly follows up with investors throughout the duration of their investment projects. The Department of Foreign Affairs, Trade and Development’s network of investment officers overseas undertake regular “back-to-back outcalls” to targeted investors, to discuss project status and needs for other services and support. These often involve an ambassadorial-level meeting at investor headquarters, and an Invest in Canada or regional IPA meeting with the CEO and top management of the investors’ local subsidiaries.

These visits allow Invest in Canada to maintain dialogue and a good relationship with investing companies after the investment decision at both the operational level, where investors are dealing with operational and administrative hurdles, and at the headquarters level, where larger investment/reinvestment decisions are often made. They also help detect investor irritants, which may hinder smooth operations and become potential obstacles to reinvestment.

UK Department for International Trade’s key account management

The UK Department for International Trade has set up a key account management system for target companies that have been identified as important for the country’s economic growth. The Department for International Trade builds relationships and exchanges with different branches and agencies of government to be able to consider the priorities and needs of major investors. Strategic relationship management techniques are used to create a collective understanding of the target company’s operations, and to establish common, long-term strategies with regard to major investors to promote positive impacts on the UK economy.

To co-ordinate the relationship, and to improve the communication between investors and government, major companies have dedicated account teams tasked with responding to investor queries, providing information about government services, and co-ordinating contact with relevant government departments.

Source: OECD (2015b), “Strengthening Chile’s investment promotion strategy”, www.oecd.org/daf/inv/investment-policy/chile-investment-promotion-strategy.htm.

Conclusions

All six SEE economies have taken a clear pro-investment stance and made the promotion of investment, including FDI, a key objective of their national development objectives. The economies provide a relatively open and non-discriminatory environment for foreign investors, with fewer restrictions on FDI than the OECD average. Those restrictions which remain are neither unusual nor a major impediment to foreign investment. The regulatory framework for investment, including for property and IP rights protection, is well aligned with international good practice throughout the region. Investor protection standards are high and expropriations of companies are rare and subject to sound and clear rules. Alternative dispute resolution mechanisms are commonly used in some economies and increasingly so in others. With a few exceptions, establishing a business in the SEE economies is easy and predictable, as procedures have been streamlined and simplified. Authorities maintain a constructive and regular dialogue with the private sector to inform it of pending reforms, collect feedback on legislative proposals and discuss investment climate challenges.

On the other hand, the investment policy framework still lacks clarity and predictability, especially for foreign investors. No economy in the region has established a foreign investment negative list to clearly delimit the sectors where foreign investment is prohibited or conditioned. Laws and regulations can still be inconsistently applied and involve lengthy procedures when disputes arise. The efficiency of the court systems and their independence from the executive should be strengthened, and judges should be better trained in commercial and IP cases. Enforcement of IP laws is not yet systematic enough and further efforts could be made to increase awareness of IP rights and improve access to information. The quality of the institutional framework for investment promotion and facilitation varies across the region, but often lacks effective co-ordination within governments. Strategies to promote and attract FDI are securely in place, but IPAs frequently lack adequate staff and resources. The SEE economies should take better advantage of their open interactions with the private sector to push for effective investment climate reforms. The way forward in investment policy and promotion should also focus on enhanced regional co-operation improve the overall investment climate in the region and promote it as a single investment destination.¹³ Finally, further efforts should also be made to enhance the developmental impact of FDI by creating linkages between foreign investors and domestic firms. IPAs could, in this regard, increasingly integrate business linkages in their activities and align their promotion strategy accordingly.

Notes

1. For further information, see www.oecd.org/investment/pfi.htm.
2. A score of 0 denotes absence or minimal policy development while a 5 indicates alignment with what is considered best practices. Each level of scoring is updated for the individual indicator under consideration, but they all follow the same score scale: a score of 1 denotes a weak pilot framework, 2 means the framework has been adopted as is standard, 3 that is operational and effective, 4 that some monitoring and adjustment has been carried out, and 5 that monitoring and improvement practices are systematic.
3. Between 47% and 52% depending on the year.
4. Calculation methods for sector shares in total FDI stocks vary according to data availability for each economy (data come from central banks). No data are available for Montenegro.
5. This figure may be underestimated, as Russian investment might be coming through offshore centres.
6. In the Former Yugoslav Republic of Macedonia, foreign ownership in radio and TV broadcasting is permitted, except in the case of an investment by a legal person whose founders are foreign persons registered in countries where, according to their legislation, it is not permitted or not possible to establish the origin of the initial capital. These investors may not conduct broadcasting activities and may not acquire shares in a broadcasting company in the Former Yugoslav Republic of Macedonia.
7. The legal framework in the six economies is likely to be more liberalised in the future for foreign investors from EU Member States, notably for those economies that recently concluded the Stabilization and Association Agreement (SAA) with the EU. The SAA constitutes the framework of relations between the European Union and the respective SEE economies, and serves as the basis for an eventual accession process to the European Union. Besides establishing a free trade area between the European Union and the economy concerned, the SAA also identifies common political and economic objectives and encourages regional co-operation. Under SAA negotiations, countries generally commit to progressively bring their legislation in line with EU regulations, including ensuring the same treatment for EU investors as its own nationals.
8. Kosovo is not officially a signatory member of the New York Convention but has unilaterally recognised it, and the enforcement of foreign arbitral awards will be implemented in conformity with the Convention.
9. According to the European Commission, the *acquis* is the body of common rights and obligations that is binding on all the EU Member States. Candidate economies have to accept the *acquis* before they can join the European Union and make EU law part of their own national legislation.
10. RAS is the result of the recent merger of the former Serbia Investment and Export Promotion Agency and the National Agency for Regional Development.
11. There are four main administrative levels in Bosnia and Herzegovina: the State, the Federation of Bosnia and Herzegovina, the Republika Srpska and the Brčko District. The administrative levels of the State, the Federation of Bosnia and Herzegovina and

the Republika Srpska are taken into account in the Competitiveness Outlook 2018 assessment, when relevant. The Brčko District is not assessed separately.

12. FDI spillovers encompass various long-lasting structural benefits that foreign investments can bring to the host economy, be they on the quality of the workforce, the competitive environment in the economy or the creation of supply chain linkages with domestic firms.
13. Progressive harmonisation and integration of investment policies would reportedly lead to increased intra-regional and foreign direct investment flows to the region. This priority has been recognised through the ongoing “Berlin Process” and was included in the last regional agenda, endorsed as a Multi-Annual Action Plan by the Western Balkan prime ministers during the Western Balkan Six Trieste Summit in July 2017.

References

- Balkananalysis.com (2016), “Chinese investment development in the Balkans 2016: Focus on Albania”, Balkananalysis.com, www.balkananalysis.com/albania/2016/06/24/chinese-investment-developments-in-the-balkans-2016-focus-on-albania (accessed 21 February 2018).
- EC (2016a), “Albania 2016 report”, Commission Staff working document, SWD(2016)364 final, European Commission, Brussels, https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_albania.pdf.
- EC (2016b), “Bosnia and Herzegovina 2016 report”, Commission Staff working document, SWD(2016)365 final, European Commission, Brussels, https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_bosnia_and_herzegovina.pdf.
- EC (2016c), “Kosovo* 2016 report”, Commission Staff working document, SWD(2016)363 final, European Commission, Brussels, https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_kosovo.pdf.
- EC (2016d), “The former Yugoslav Republic of Macedonia 2016 report”, Commission Staff working document, SWD(2016)362 final, European Commission, Brussels, https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_the_former_yugoslav_republic_of_macedonia.pdf.
- EC (2016e), “Montenegro 2016 report”, Commission Staff working document, SWD(2016)360 final, European Commission, Brussels, https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_montenegro.pdf.

- EC (2016f), “Serbia 2016 report”, Commission Staff working document, SWD(2016)361 final, European Commission, Brussels, https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_serbia.pdf.
- EIU (2017), *Country Reports of Albania, Bosnia and Herzegovina, the Former Yugoslav Republic of Macedonia, Montenegro and Serbia*, Economist Intelligence Unit, London.
- Estrin, S. and M. Uvalic (2013), “Foreign direct investment into transition economies: Are the Balkans different?” *LSE ‘Europe in Question’ Discussion Paper Series*, No. 64/2013, The London School of Economics and Political Science, London, www.lse.ac.uk/europeanInstitute/LEQS%20Discussion%20Paper%20Series/LEQSPaper64.pdf.
- Farole, T. and D. Winkler (2014), *Making Foreign Direct Investment Work for Sub-Saharan Africa: Local Spillovers and Competitiveness in Global Value Chains*, World Bank, Washington, DC, <https://openknowledge.worldbank.org/handle/10986/16390>.
- Financial Times (19 December 2014), “China looks to Europe – through the Balkans”, *Financial Times*, blogs.ft.com/beyond-brics/2014/12/19/china-looks-to-europe-through-the-balkans.
- IMF (2017), *IMF Data* (database), International Monetary Fund, www.imf.org/en/data (accessed 8 January 2018).
- InvestKorea (n.d.), InvestKorea, www.investkorea.org/en/index.do (accessed 8 January 2018).
- Kalinova, B., A. Palerm and S. Thomsen (2010), “OECD’s FDI Restrictiveness Index: 2010 update”, *OECD Working Papers on International Investment*, No. 2010/03, OECD Publishing, Paris, <http://dx.doi.org/10.1787/5km91p02zj7g-en>.
- Mejdini, F. (17 February 2016), “Albania seeks more big name investors”, *Balkan Insight*, www.balkaninsight.com/en/article/albania-foreign-investments-increased-but-lacking-big-names-02-16-2016.
- Ministry of Foreign Affairs of Turkey (2011), “Relations between Turkey and Kosovo”, Ministry of Foreign Affairs, www.mfa.gov.tr/relations-between-turkey-and-kosovo_en.mfa.
- OECD (2017a), “Tracking special economic zones in the Western Balkans: Objectives, features and key challenges”, OECD, Paris, www.oecd.org/south-east-europe/SEZ_WB_2017.pdf.
- OECD (2017b), *FDI Regulatory Restrictiveness Index* (database), OECD, www.oecd.org/investment/fdiindex.htm (accessed 1 December 2017).
- OECD (2016), *Competitiveness in South East Europe: A Policy Outlook*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264250529-en>.
- OECD (2015a), *Policy Framework for Investment: 2015 Edition*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/9789264208667-en>.
- OECD (2015b), “Strengthening Chile’s investment promotion strategy”, OECD, Paris, www.oecd.org/daf/inv/investment-policy/chile-investment-promotion-strategy.htm.

- OECD (2004), “Investment incentives and FDI in selected ASEAN countries”, in *International Investment Perspectives 2004*, OECD Publishing, Paris, <http://dx.doi.org/10.1787/iip-2004-4-en>.
- Rapoza, K. (10 March 2017), “China courts Albanian investment while U.S. pushes politics”, Forbes blog, www.forbes.com/sites/kenrapoza/2017/03/10/albania-china-ilir-meta-washington-reforms-politics/#59e95c8e17ed.
- The Economist (21 January 2016), “Ottoman comfort: Arab tourists and investors are giving Bosnia a new shine”, *The Economist*, www.economist.com/news/europe/21688928-arab-tourists-and-investors-are-giving-bosnia-new-shine-ottoman-comfort.
- UNCTAD (2017), *World Investment Report 2017: Investment and the Digital Economy*, United Nations Conference on Trade and Development, Geneva, <http://unctad.org/en/pages/PublicationWebflyer.aspx?publicationid=1782> (accessed 2 December 2017).
- UNCTAD (2015), *Investment Policy Review of Bosnia and Herzegovina*, United Nations Conference on Trade and Development, Geneva, <http://unctad.org/en/pages/PublicationWebflyer.aspx?publicationid=1383>.
- UNCTAD (2012), *Investment Policy Review of the Former Yugoslav Republic of Macedonia*, United Nations Conference on Trade and Development, Geneva, <http://unctad.org/en/pages/PublicationWebflyer.aspx?publicationid=85>.
- UNCTAD (2010), *Creating Business Linkages: A Policy Perspective*, United Nations Conference on Trade and Development, Geneva, http://unctad.org/en/Docs/diaeced20091_en.pdf.
- US Department of State (2016), *Investment Climate Statements: Albania; Bosnia and Herzegovina; Kosovo; the Former Yugoslav Republic of Macedonia; Montenegro; Serbia*, US Department of State, Washington, DC.
- WIIW (2002), *FDI in South-Eastern Europe in the Early 2000s*, Vienna Institute for International Economic Studies, Vienna, www.oecd.org/czech/1940829.pdf.
- World Bank (2017a), *Doing Business 2017: Equal Opportunity for All*, World Bank, Washington, DC, www.doingbusiness.org/reports/global-reports/doing-business-2017.
- World Bank (2017b), *World Development Indicators 2017*, World Bank, Washington, DC, <https://openknowledge.worldbank.org/handle/10986/26447>.
- World Bank Group (2016), *South East Europe Regular Economic Report No. 10*, World Bank, Washington, DC, www.worldbank.org/en/region/eca/publication/south-east-europe-regular-economic-report.

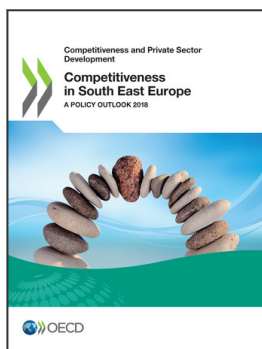
Annex 1.A1.

Investment policy and promotion: Indicator scores

Table 1.A1.1. **Investment policy and promotion: Indicator scores**

	ALB	BIH	KOS	MKD	MNE	SRB
Investment policy						
Guarantees against expropriation	3.5	3.5	4.0	4.0	4.0	4.0
Court system	1.5	1.5	2.5	2.5	3.0	3.0
Alternative dispute resolution	2.5	1.5	3.5	3.5	3.0	3.5
Intellectual property rights laws	3.5	3.0	3.5	3.5	4.0	4.5
Intellectual property rights enforcement	2.5	2.0	3.0	3.0	2.5	4.0
Intellectual property rights awareness raising	3.5	1.5	2.0	3.5	3.0	3.5
Investment promotion and facilitation						
Strategy and institutional framework	2.5	2.0	2.0	3.0	2.0	3.0
Investor targeting	2.5	2.5	1.5	3.5	1.5	3.0
Investment incentives	2.0	2.0	2.0	2.5	2.5	3.0
Starting a business	3.0	1.5	4.0	4.5	2.5	2.5
Aftercare	2.5	3.0	2.0	3.5	1.5	3.5
FDI-SME linkages	2.0	1.5	1.0	2.0	1.5	3.5

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